



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, शुक्रवार, 16 जनवरी, 2009 / 26 पौष, 1930

हिमाचल प्रदेश सरकार

FINANCE DEPARTMENT

NOTIFICATION

Shimla-2, 16th January, 2009

No. Fin-2-C(12)-2/2008.—Government of Himachal Pradesh hereby notifies the sale of Himachal Pradesh Government Stock (securities) of 10-year tenure for an aggregate amount of Rs. 300.00 crore (Nominal). The sale will be subject to the terms and conditions spelt out in this notification (called specific Notification) as also the terms and conditions specified in the revised General Notification No. Fin-2-C(12)-11/2003 dated 20th July, 2007 of Government of Himachal Pradesh.

1. Object of the loan.—(i) The proceeds of the State Government Securities will be utilized for the development programme of the Government of Himachal Pradesh.

(ii) Consent of Central Government has been obtained to the floatation of this loan as required by Article 293 (3) of the Constitution of India.

2. Method of Issue.—Government Stock will be sold through the Reserve Bank of India, Mumbai Office (PDO) Fort, Mumbai-400 001 by auction in the manner as prescribed in paragraph 6.1 of the revised General Notification No.Fin-2-C(12)- 11/2003, dated 20th July 2007 at a coupon rate to be determined by the Reserve Bank of India at the yield based auction under multiple price format.

3. Place and Date of Auction.—The auction will be conducted by the Reserve Bank of India, at its Mumbai Office, Fort, Mumbai on January 22, 2009. The application form duly filled in with the bids should be submitted to the aforesaid office on January 22, 2009 by 12.30 p.m.’

4. Result of the Auction.— The result of the auction shall be displayed by the Reserve Bank of India at its Mumbai Office, Fort, Mumbai on **January 22, 2009**. The payment by successful bidders will be on **January 23, 2009 by 12.30 p.m.**

5. Method of Payment.— Successful bidders will make payments on **January 23, 2009** before close of banking hours by means of cash, bankers’ cheque/pay order, demand draft payable at Reserve Bank of India, Mumbai/New Delhi or a cheque drawn on their account with Reserve Bank of India, Mumbai(Fort)/New Delhi.

6. Tenure.—The Stock will be of ten-year tenure. The tenure of the Stock will commence on **January 23, 2009**.

7. Date of Repayment.—The loan will be repaid at par on **January 23, 2019**

8. Rate of Interest.—The cut-off yield determined at the auction will be the coupon rate percent per annum on the stock sold at the auction. The interest will be paid every half yearly on **July 23 and January 23**.

9. Eligibility of Securities.— The investment in Government Stock will be reckoned as an eligible investment in Government Securities by banks for the purpose of Statutory Liquidity Ratio (SLR) under Section 24 of the Banking Regulation Act, 1949. The stocks will qualify for the ready forward facility.

By order and in the name of the Governor of Himachal Pradesh

By order,
Sd/-
Principal Secretary.

In the court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla

Ref No. 176 of 1999.

Instituted On 07.10.1999.

Decided On. 23.8.2008.

1. Kesar Chand, S/o Shri Leel Dass, R/o Village & P.O Rewag Tehsil Sunni District Shimla, HP.
2. Sohan Lal S/o Shri Sudama, R/o Village Golan, P.O Juni, Tehsil Sunni, district Shimla, HP.
3. Uma shankar, S/o Shri Achar singh R/o Village Kandola, P.O Juni, Tehsil Sunni, District Shimla, HP.
4. Om Prakesh, S/o Shri Dharam Dutt, R/o Village Pisti, Tehsil Sunni, District Shimla HP.
5. Vidya Sagar, S/o Shri Tek Ram R/o Village Pirti, Tehsil Sunni District Shimla, HP.

6. Tilak Ram S/o Shri Attru Ram, R/o Village Disti, Tehsil Sunni District Shimla, HP.

...Petitioners.

VERSUS

1. State of Himachal Pradesh through Secretary I&PH to the government of H.P. Shimla.
2. Executive Engineer I&PH Division Sunni Tehsil Sunni District Shimla, HP.
3. SDO I&PH Sub Division Sunni, Tehsil Sunni District, Shimla HP.

...Respondents.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: - Shri G.S Ahir, Ld. Csl.

For respondent: - Shri T.C Kainthla, Ld. DDA.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:-

“Whether the action of the Executive Engineer, I&PH Division Sunni District Shimla, HP in terminating the services of S/Shri Kesar Chand, Uma Shankar, Sohan Lal, Vidya Sagar, Om Prakesh & Tilak Ram, ex daily wages workers by giving them fictional breaks in service from time to time and terming the same as abandonment of duties by the workers themselves is legal and justified. If not, to what relief of pay, post, seniority, service benefits and amount of compensation, the above aggrieved workmen are entitled?”

2. The petitioners have filed separate claims asserting therein that petitioner Kesar Chand was initially appointed as cleaner/conductor in Vehicle No. HPS-7006 with Executive Engineer I&PH Sub division, Sunni Tehsil Sunni District Shimla in May, 1993 who continued to work till November, 1993. Petitioners Sohan Lal and Uma Shankar were initially appointed as beldar in the year 1994 with the respondents, who continued to work till November, 1997 and June, 1997 and petitioners Om Prakesh, Vidya Sagar and Tilak Raj were appointed as beldars with the respondent in the year 1984 who continued to work till 1990. The petitioners have worked with full sincerity, devotion and missionary zeal and to the entire satisfaction of their superiors but their services were orally terminated without any cogent reasons, who were not allowed to complete 240 days in a calendar year of their service and the services of the petitioners were illegally terminated without complying the provisions of section 25-F, 25-L and 25-N of the Industrial Disputes Act and besides it, the respondents also grossly violated the provisions of section 25-G and 25-H of the Industrial Disputes Act and that the petitioners were given artificial and fictional breaks intentionally and wilfully so that they may not complete 240 days in a calendar year and their case clearly covered by the Hon'ble Supreme Court reported in AIR 1976, Supreme Court 1111 and the termination/ retrenchment of the petitioners by the employer have been done not in good faith but in a colorful exercise of the employers right which is a victimization and also is an unlawful labour practice, hence prayed for reinstatement along with all consequential benefits including back wages.

3. The respondent resisted and contested the claim of the petitioners which filed separate reply inter alia contending that petitioner Kesar Chand has worked under IPH Sub-Division Sunni as Cleaner w.e.f. 5/93 to 12/93 only who worked for 239 days during the calendar year who left the job of his own sweet will and did not turn up for the work after 1994 up till now. Petitioner Sohan Lal had worked with the respondent w.e.f 2/94 to 11/97 and Uma Shankar worked from 9/94 to 2/97 with breaks, who have not completed 240 days in a calendar year and similarly petitioners Om Prakesh, Vidya Sagar and Tilak Ram also worked with the department, who have not completed 240 working days in a calendar year as per their manday chart and since the petitioners failed to avail the statutory remedy so available to them under law, hence are not entitled for their reinstatement.

4. In their rejoinders, the petitioners have controverted the assertions made in the reply and reaffirmed and reiterated the averments of the claim petition.

5. The following issues were framed by this Court on 28.10.2005 on the pleadings of the parties.

1. Whether the services of s/Shri Kesar Chand, Uma Shankar, Sohan Lal, Vidya Sagar, Om Prakesh and Tilak Ram have been illegally terminated by the Executive Engineer IPH Suni? If so, its effect?

...OPP.

2. If issue No-1 is proved in affirmative whether the petitioners are entitled for the relief claimed?

...OPP.

3. Whether the petition is not maintainable in the present form? ...OPR.
4. Relief.
6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.
7. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under:—
- | | |
|------------|---|
| Issue No.1 | No. |
| Issue No.2 | Not entitled to any relief. |
| Issue No.3 | No. |
| Relief. | Reference answered in negative per operative part of award. |

REASONS FOR FINDINGS

Issue No. 1

8. Coming to issue No.1, the petitioners have examined five PWs in all. PW-1 Shri Kesar Chand has stated that he joined as Truck Conductor on daily wages in IPH sub Division Sunni in May, 1993 and worked as such till 31.12.1993. He also reported for duties on 1.1.1994 but his attendance was not marked. He reported for duties for 4-5 days but without effect. He was told that he shall be called again but never called. He had completed 240 days during said period. Neither any notice was issued to him nor he was paid retrenchment compensation when his services were dismissed orally though he was retrenched, fresh recruitment was made by the respondent and in his place a fresh hand was employed who is presently driving the vehicle of the Executive Engineer. He was not paid wages beyond 31.12.1993 who had not abandoned the job and instead he was retrenched. He was not allowed to complete 240 days of service as his service was arbitrarily dispensed with and as such prayed for all service benefits including back wages.

9. PW-2 Shri Uma Shankar has stated that he joined as daily wages beldar in IPH sub division in August, 1994 and continued as such till June, 1997. the department had given breaks in service fictionally after every three months so that service of 240 days could not be completed. He was retrenched in June, 1997 fresh recruitment was made by the department and fresh recruited person is Tahira Begum. He was not served with any notice nor was paid retrenchment compensation. He had completed 240 days service after taking into consideration the fictional breaks. He prayed for reinstatement along with all consequential benefits including back wages.

10. PW-3 Shri Om Prakesh has stated that he was engaged as beldar in 1984 at IPH Sub Division Sunni. He was retrenched in 1990. He has completed 240 days during each calendar year of his service. After his disengagement, the respondent department had engaged fresh hands namely Raja Ram, Tara Chand, Hukum Chand etc. He was not given any notice or retrenchment compensation at the time of his disengagement. He had requested the Junior Assistant twice or thrice but he was told that he would be reengaged as and when the work would be available.

11. PW-4 Shri Vidya Sagar has stated that he was initially appointed as beldar in Jan. 1984 by the respondent who was retrenched in 1990 after having completed 240 days during each calendar year. After his disengagement, the respondent department had engaged fresh hands namely Raja Ram, Tara Chand, Hukum Chand etc. He was not given any notice or retrenchment compensation at the time of his disengagement. He had requested Junior Assistant twice or thrice but he was told that he would be reengaged as and when the work will be available.

12. PW-4 Shri Tilak Ram has stated that initially he was appointed as beldar in Jan. 1981 who was retrenched in 1997 after having completed 240 days during each calendar year. After his disengagement, the respondent department had engaged fresh hands namely Raja Ram, Tara Chand, Hukum Chand etc. He was not given any notice or retrenchment compensation at the time of his disengagement. He had requested Junior Assistant twice or thrice but he was told that he would be reengaged as and when the work would be available.

13. To rebut the case of the petitioners, the respondents have examined two RWs in all. RW-1 Shri Balak Ram, Senior Assistant in IPH Sunni has brought the record of the case and proved the mandays chart on the basis of muster rolls of the petitioners which are Ex. R-1 to Ex. R-5.

14. RW-2 Er. Gopal Singh has stated that he remained posted as Junior Assistant at Suni IPH Division from September, 1997 to June 1999. Petitioner Sohan lal worked during his tenure who worked as per mandays chart Ex. R-4. The petitioner left the job of his own. The petitioner never reported for duties after 1998. Other petitioner i.e S/Shri Trilok Ram, Om Prakesh, Uma Shankar also left the job at their own.

15. The case of the petitioners is that they being the daily waged Cleaner/ beldars had completed 240 working days in each calendar year preceding their termination who were never served with any notice nor paid retrenchment compensation before their termination and as such they are entitled to be reinstated in service along with all consequential benefits including back wages.

16. On the contrary, the respondents contend that the petitioners have not completed 240 working days in any calendar year preceding their termination and as such they are not entitled to any relief and no junior to the petitioners was engaged by the respondents.

17. I have considered the respective contention of both the parties and have scrutinized the record of the case.

18. After the close scrutiny of the record of the case, it remains a fact that it is also the case of the petitioners that they were not allowed to complete 240 days in a calendar year preceding their termination and at the same time they are also taking up the plea that they have completed 240 days without any basis and foundations. It is significant to note that only petitioner Shri Kesar Chand has completed 239 days and not the 240 days as required under the law while Uma Shankar worked for 111 days, Sohan Lal worked for 67 days, Vidya Sagar worked for 87 days, Tilak Ram worked for 47 days as is evident from Ex. R-1 to Ex. R-5. Apart from it, there is nothing on record which could show that Raja Ram, Tara Chand, Hukum Chand were the junior to the petitioners nor they summoned any record from the department in order to show that when their juniors joined the service and whether they are still continuing with the respondent department. No doubt, it is well settled that counting of 240 days is not necessary in 12 calendar months and it is not necessary for the workman to complete 240 days during 12 months of a calendar year preceding his termination for taking the benefits of section 25-G of the Act as held in *Shriram Industrial Enterprises Ltd. Vs. Mahak Singh and others* as reported in (2007) 4 Supreme Court Cases 94 in which it was held that:-

“The exclusion of the word preceding from section 2(g) of the U.P Act indicates that a workman in order to be in continuous service may have worked continuously for a period of 240 days in any calendar year during his period of service.”

From the perusal of this ruling, it is clear that if the peittioner completes 240 working days in any calendar year preceding his termination that period will be counted for the reckoning of requisite period of total working days to cover his case under section 25 F of the Industrial Disputes Act, 1947. In the instant case, the petitioners have not proved on record that they have worked for 240 days in any calendar year as is evident from their mandays chart relied upon by the respondent Ex. R-1 to Ex. R-5.

19. After perusing the entire record of the case, the petitioners have not completed 240 days in any calendar year preceding their termination. In the instant case, the petitioners being workmen claimed to have worked for more than 240 working days in every calendar but admitted in their deposition that they were not allowed to complete 240 working days. Apart from oral evidence, workmen have not produced any evidence to prove the fact that they have worked for 240 days. No proof of receipt of salary or wages or any record or order in that regard was produced: no co-worker was examined; muster roll produced by employer has not been contradicted—Workmen have failed to discharge their burden that they were in employment for 240 days during preceding 12 months of date of termination of their service—Workmen not entitled for protection of Section 25-F before his service was terminated. Here I am fortified with a view taken by their lordship of Hon’ble Supreme Court in case titled as *Surindernagar District Panchyat V/s Dayabhai Amarsinh* as reported in AIR 2006 S.C. 110.

20. Now, advertng to the other aspect of the case, the petitioners have not proved on record that their juniors S/Shri Raja Ram, Tara Chand, Hukum Chand are still working with the respondent nor any office record of the respondent was summoned in order to prove their appointment and as such their plea that their juniors are still continuing with the respondent is of no avail having not proved on record.

21. Thus, having regard to the entire evidence on record, it can safely be concluded that S/Shri Kesar Chand, Uma Shankar, Sohan Lal, Vidya Sagar, Om Prakesh & Tilak Ram have not been illegally terminated by the respondent and no notice nor any retrenchment compensation was required to be paid to the petitioners as they failed to complete 240 working days in a calendar year preceding their termination. Accordingly, issue No.1 is decided in favour of the respondents and against the petitioners.

Issue No.2

21. since I have held under issue No.1 above, that the services of the petitioners have not been illegally terminated by the respondents, hence the petitioners are not entitled to any relief as claimed by them. Accordingly, this issue is decided in favour of the respondent and against the petitioners.

22. In support of this issue, no evidence was led by the respondents being the legal issue. However, I find nothing wrong with this petition which is perfectly maintainable in the present form, hence issue No.3 is decided in favour of petitioners and against the respondents.

RELIEF

As a sequel to my discussion and findings on issue No-1 to 3 above, the claim fails and is hereby dismissed and the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today on this 23rd Day of August, 2008 in presence of parties.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

In the court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla

Ref No. 35 of 2000.

Instituted On 24.4.2000

Decided On. 5.8.2008.

7. Raghuvir singh
8. Dhuni chand
9. Churu Ram
10. Nant Ram

All through Shri J.C Bhardwaj, the General Secretary, HP AITUC Saproon, District Solan, HP.

...Petitioners

Versus

BCC Fuba (India) Ltd. Village Nangal, Tehsil Nalagarh, District solan, HP through its General Manager.

...Respondent

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri J.C Bhardwaj, Ld. AR.

For respondent : Shri Neeraj Manikatala, Ld. Csl.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:—

“Whether the termination of services of S/Shri Raghubir Singh, Dhuni Chand, Churu Ram and Nant Ram exworkers by the management of M/s BCC Fuba (India) Ltd. Nangal Nalagarh District Solan HP through its General Manager without any reason, notice and without compliance of section 25-F of the Industrial Disputes Act, 1947 is legal and justified? If not, to what relief of service benefits and amount of compensation, the above aggrieved workmen are entitled to?”

2. The petitioners have filed a separate claim pleading therein that the petitioner Raghuvir Singh, was appointed in the company's employment on 11.11.1990 and petitioners Dhuni Chand, Churu Ram and Nant Ram were appointed in August, 1992 on the permanent nature of work and the petitioners were refused work on 25.11.1998 and that the services of the petitioners were continuous for the purpose of section 25-B of the Act, 1947 as they have

completed more than 240 days in employment in each year of their service tenure and as such they are entitled to the protection under the Labour Law Legislation and that the petitioners were the active members of the BCC Fuba (India) Ltd workers union AITUC and the union members joined a strike w.e.f. 10th October, 1998 to 25.11.1998 and after the settlement except petitioners, all the workmen were taken back on the duty and since the date of illegal termination of the services of the petitioner are unemployed as the respondent has made the integrity of the petitioners doubtful in the eyes of one and all and that the petitioners were never served with any show cause notice, warning letter and explanation call due to their excellent work and conduct and no enquiry into the allegation was conducted or ordered and as such the case of the petitioners fell within the ambit of section 2-oo of the Act, 1947 and that the petitioners never served with three months notice for retrenchment nor they were paid any salary in lieu of that and the respondent management also did not pay compensation and that the refusal of work to the petitioners is also violative of Articles of 14 and 16 of constitution of India as the right of enquiry has been denied to them in comparison to other workmen and as such the petitioners prays for their reinstatement in the employment with full back wages, seniority, hence this claim.

3. The respondent resisted and contested the claim of the petitioners, which filed reply inter alia raising preliminary objections of maintainability in view of Sick Industrial Companies (Special Provisions) Act, 1985 and the company has been declared sick vide order of board of Industrial & Financial Reconstruction in case No. 98 of 1997 and that the petitioners have abandoned their job of their own and as such there is no Industrial Dispute existing between the parties and that the appropriate government has not applied its mind while referring the matter under section 10 of the Act as it is not based upon the material facts and the reference is bad in law and the matter has been referred to the Labour Court after a period of two years. On merits, it is contended that the petitioners were the employees of the company and their date of appointment is as under:-

	Names	Date of appointment
1.	Shri Churu Ram	1.4.1992
2.	Shri Raghbir Singh	11.12.1990.
3.	Shri Dhuni Chand	1.8.1992.
4.	Shri Nant Ram	2.11.1992.

And that the petitioners have abandoned their job and they have lost their job under the Certified Standing Orders and as such their termination is in accordance with the provisions of law and that the petitioners resorted to strike w.e.f. 10.10.1998 to 25.11.1998 which was prohibited by the Government of Himachal Pradesh but inspite of it, the petitioners did not join their duties and the strike continued upto 25.11.1998 and the strike was illegal, contrary to the provisions of Industrial Disputes Act and that the settlement was arrived between the parties which was entered into after intervention of the Conciliation Officer as a result of which the workers agreed to resume their duties on 26.11.1998 and that the respondent has framed its Standing Orders under the provisions of Industrial Employment (Standing Orders) Act, 1946 and clause II deals with abandonment of service and as per clause II(b) "If a workman remains absent without leave for a period exceeding 8 days at a stretch, he shall be deemed to have abandoned the services." The copy of Standing Orders is placed on record as Annexure R3 and that after the strike, the petitioners have not resumed their duties and then the matter was reported from Time Office to the Administration and then by way of letter dated 27.11.1998, the petitioners were informed to report for duties by 4.12.1998 and to explain the reasons of their absence which were sent through postal certificate and that inspite of this, the petitioners did not report for their duties and again Time Office vide its letter dated 5.12.1998 informed the Administration that the petitioners were absenting from their duties because of which the factory premises had become absolutely dirty and then the Administration again issued letters to the petitioners informing them that inspite issuance of official letters, they did not join their duties, who have given one more opportunity to report for duties by 10.12.1998 and to explain the reason of absence and they were also informed that incase they did not join their duties, action under clause II(b) of the Certified Standing Orders will be taken but the petitioners did not join their duties and the Administration had no other alternative remedy than to dispense with the service of the petitioners and the order dated 12.12.1998 was passed observing that the petitioners had been absenting from their duties since 26.11.1998 and despite letters dated 27.11.1998 and 5.12.1998, the petitioners had not joined their duties and as such the Certified Standing Orders of the company have statutory force behind them and in accordance with its provisions. It is also contended that the petitioners have lost their lien on the job by absenting themselves and as such the provisions of section 25-F of the Industrial Disputes Act, 1947 are not applicable and that all the petitioners are gainfully employed and the provisions of section 25-N of the Industrial Disputes Act, 1947 are not applicable in the present case and as such prays for the dismissal of the reference.

4. In the rejoinder, the petitioners have controverted the assertions made in the reply and reaffirmed and reiterated the averments of the petition.

5. The following issues were framed by this Court on 18.9.2002 on the pleadings of the parties.

5. Whether the termination of services of petitioners by the respondent is violative of section 25-F of the Industrial Disputes Act, 1947?
...OPP

6. Whether reference is not maintainable in view of preliminary objections No.1 to 3?

...OPR

7. Whether the reference suffers from delay and laches?

....OPR

8. Relief.

6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under:—

Issue No.1	Yes.
Issue No.2	No.
Issue No.3	No.
Relief.	Reference allowed per operative part of award.

REASONS FOR FINDINGS

Issue No.1

8. Coming to issue No.1, the petitioners have examined five PWs in all. Shri Dhuni Chand appeared into the witness box as PW-1 who has stated that he joined the service of the respondent company in the month of August, 1992 as Sweeper whose services were dispensed with w.e.f. 25.11.1998 as the worker resorted to strike and he also participated in the strike and after strike, the services of all the workers were taken back except the petitioners and it was agreed at the time of settlement between the workers union and management that all the workers will be taken back and as such they went to join their duties regularly after 25.11.1998 but they were not allowed and no notice or compensation was paid to them. No letters were received by them from the respondent and they have worked for more than 240 days during their service tenure in every calendar year and there are more than 100 workers in the factory of the respondent and as such he prays for his reinstatement with back wages, seniority and consequential benefits.

9. PW-2, Shri Raghubir Singh, PW-3 Shri Churu Ram and PW-4 Shri Nanat Ram have supported the deposition of PW-1 and stated that they were appointed in August, 1992.

10. PW-5 Shri Achar Singh has stated that he is the President of BCC Fuba workers union which is duly registered. The petitioners were also the members of the union and were concerned workmen in the reference, copy of which is Ex. PW-5/A and copy of statement of claim is Ex. PW-5/B. After the strike was over on 25.11.1998 there was settlement/agreement between the union and management and as per the terms of settlement, the services of the workmen including petitioners have been taken back by the management and they were told that enquiry would be conducted in their case, but no enquiry was conducted and the petitioners used to come daily but they were not permitted to work and then the petitioners moved before the Labour Inspector where conciliation proceedings were held but respondent remained adamant to take back the services of the petitioners.

11. On the contrary, the respondent has examined Shri S.K Benerjee, who appeared into the witness box as RW-1 and stated that he is whole time Director of the company and the petitioners were the employees of the company. The petitioners along with other workers had gone on strike w.e.f. 10.10.1998 till 26.11.1998 which was declared illegal by the government as per letter Ex. RW-1/A. Despite declaring the strike as illegal, the petitioners and other workmen never returned to their duties and then the company had served the show cause notice Ex. RW-1/B. He had issued the publication in the news paper that their strike is illegal as per cuttings of news paper Ex. RW- 1/C, Ex. RW-1/D and Ex. RW-1/E and even publication, the workers including petitioners never came back to join their duties. There was settlement between the workers and management dated 26.11.1998 which is Ex. RW-1/F and as per the settlement, the workers who resumed their duties on or before 2.12.1998 were taken back. The 26.11.1998 was the last date given to the employees to join back but they were permitted to resume their duties till 2.12.1998 and the copy of Standing Orders of the company is Ex. RW-1/G. As per Standing Orders of the company, the workers who remained absent from duties continuously for four days ceases to be the employee of the company. About the transfer, the Time Officer has reported the management as per letter Ex. RW-1/H and then we have written the letters to the petitioners per Ex. RW-1/J(1) to Ex. RW-4/J(4). These letters were sent through UPC which is Ex. RW-1/J(5). Despite these letters, the petitioners have not joined their duties. When the petitioners failed to join their duties, he received the information from Time Office on 4.12.1998 which is Ex. RW-1/J(6) and then he offered last chance to the petitioners vide letters Ex. RW-1/J(7) to RW-1/J(10) and the UPC is Ex. RW-1/J(11) and provided them to resume their duties. The Time Office again intimated that the petitioners failed to join their duties and then they passed the order as per Standing Orders of the company on 10.12.1998 which is Ex. RW-1/J(12). No explanation or reason has been sent by

the petitioner to his company for their absence. The order of abandonment of job by the petitioners is Ex. RW-1/J(13) to Ex. RW-1/J(16) sent vide UPC Ex. RW-1/J(17 & 18). The claim petition was filed by two persons only, the workers who had joined their duties after the settlement, had given their joining report and after the settlement all the employees except the petitioners joined their duties and as per the Standing Orders of the company, the person who has not joined will be considered having abandoned his job. The strike when declared illegal, the management had served a show cause notice to all through post.

12. The case of the petitioners is that though they joined the strike but the respondent after the settlement did not allow them to join their duties despite several request oral and in writing and since no domestic enquiry was conducted by the respondent before their termination nor any notice nor retrenchment compensation was paid to them before their termination and as such, they are entitled to be reinstated with all consequential benefits.

13. On the contrary, the respondent contends that since the petitioners did not join their duties after the settlement on or before the last date given by the management who wilfully absented themselves and as per the Standing Orders of the company, if a person absents himself from his duties for four days without seeking any leave he is deemed to have abandoned the job of his own and since the petitioners did not join their duties without any sufficient reason and as such they abandoned the job of their own as per the Standing Orders of the Company.

14. I have considered the respective contentions of both the parties and have scrutinized the record of the case. 15. After the close scrutiny of the record of the case, it is clear that the RW-1 Shri S.K Banerjee Director of the company has admitted in his cross examination that no enquiry was conducted against the petitioners when they failed to resume their duties. He is also admitted that after the settlement when the petitioner failed to resume their duties, they again approached the Conciliation Officer where the respondent refused to take them back. He is also admitted that the demand of the workers was pending before this court as per reference Ex. PX being the demand of the entire union and no approval for terminating the services of these workers was taken from this Court as per him the strike was declared illegal. After the scrutiny of the statement of RW-1 it is clear that no domestic enquiry was conducted against the petitioners by the respondent. Apart from it, the respondent has admitted that he failed to take back the services of petitioners before the Conciliation Officer, hence it does not lie in the mouth of respondent to say that the petitioners themselves failed to resume their duties when they were called upon to do so especially when they were not allowed to join their duties as is evident from the statement of RW-1. It is well settled in *D. K Yadav Vs. M/s J.M A Industries Ltd.* as reported in 1993-1 Supreme Court Service Law Judgments -221. In which it was held that:—

“The striking of the name of workmen for absence from duty amounts to retrenchment. Reasonable opportunity be given to the employee concerned to put forth his case and proper enquiry be held before terminating his service.”

In the instant case, admittedly no opportunity was given to the petitioners and no enquiry was held as admitted by RW-1 Shri S.K Banerjee. The petitioners plea put forth at the earliest is that despite their reporting to duty and on all subsequent dates and readiness to join duties, they were prevented to report to duty nor they be permitted to sign the attendance register. However, it is not disputed by the respondent that the petitioners had completed more than 240 working days in a calendar year preceding their termination. No doubt, the management of respondent tried to establish on record that they had power under the Certified Standing Orders of the company to terminate with the service of the petitioners. Therefore, keeping in view the entire facts and circumstances of the case, I am of the firm opinion that the principles of natural justice must be read into the Standing Orders of the company, otherwise it would be come arbitrary, unjust and unfair violating Article 14 and when so read, the impugned action of the respondent is violative of the principles of natural justice.

16. Thus, having regard to entire evidence on record and the fact that the petitioners have been deprived from the principles of natural justice having not afforded any opportunity of being heard and no domestic enquiry was conducted by the respondent before initiating any action against the petitioners and obviously therefore, I have no hesitation in coming to the conclusion that the termination of services of the petitioners by the respondent is violative of section 25-F of the Industrial Disputes Act, 1947. Accordingly issue No.1 is decided in favour of the petitioners and against the respondent.

Issue No. 2.

17. Since I have held under issue No.1 above, that the termination of services of petitioners by respondent is violative of section 25-F of the Industrial Disputes Act, 1947 hence the petitioners are entitled to reinstatement with seniority and continuity in service. However, the petitioners are not entitled to back wages keeping in view the peculiar facts and circumstances of the case. Accordingly this issue is disposed of.

Issue No.3

18. In support of this issue, no evidence was led by the respondents nor it was pressed during the course of argument. However, I find nothing wrong with this petition which is perfectly maintainable, hence issue No.3 is decided in favour of the petitioner and against the respondent.

Issue No. 4

19. In support of this issue, no evidence was led by the respondent being the legal issue. However, I have scrutinized the record of the case and observed that there is no limitation under the Industrial Disputes Act, 1947 as it was held by their lordship of Hon'ble Supreme Court reported in (1999) 6 SC 82 case titled as Ajayab singh Vs. Sirhind Co-operative Marketing –cumprocessing Service Society Limited and Another. In which it was held that:—

“the provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”

Accordingly, on the strength of this ruling, it can safely be concluded that there is no limitation under the Industrial Disputes Act, 1947 and as such issue is decided in negative.

RELIEF

As a sequel to my above discussion and findings on Issue No-1 to 4, the claim partly succeeds and is hereby allowed partly except the back wages and as such the petitioners are ordered to be reinstated along with seniority and continuity in service forthwith however, the petitioners are not entitled for any back wages in the peculiar facts and circumstances of the case and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 5th day of August, 2008 in the presence of parties.

JAGMOHAN SINGH MAHANTAN,
*Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.*

**In the court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal–cum-
Labour Court, Shimla.**

Ref. No.96 of 2001.

Instituted On : 16.5.2001.

Decided On : 28.8.2008.

HP. Shri Swaroop Singh S/o Shri Chet Ram R/o Village Kanyon, P.O Rama, Tehsil Nahan, District Sirmaur,
....*Petitioner.*

Versus

1. The Nahan Foundry Ltd. Nahan through its General Manager.
2. The Secretary (PWD) to the government of HP Shimla.
3. The Executive Engineer, I&PH/PWD workshop Nahan (Nahan Foundry) Nahan.*Respondents.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri A.K Gupta, Ld. Csl.

For respondent : Shri T.C kainthla, Ld. DDA.

AWARD

1. Shri Sarup Singh S/o Shri Chet Ram had worked for six years continuous service as semi- skilled workman in the erstwhile Nahan Foundry Ltd. Nahan, who was engaged as such w.e.f. 1976 and continued up to 1982 when his services were dispensed with without any notice or compensation under section 25-F of the Industrial disputes Act, 1947 and even the Standing Orders framed by the erstwhile Nahan Foundry were not complied with while dispensing the services of the petitioner and even the petitioner was a regular employee, whose service cannot be dispensed with without holding any enquiry who also approached the concerned authority regarding his grievance and made representations but without effect and even his juniors are still working against the principle of last come first go and the services of the employees of erstwhile Nahan Foundry Ltd. Nahan were taken over by the HPPWD/IPH department w.e.f. 1.10.1988 and the service of the petitioner was liable to be taken over by respondent employer and as such the petitioner prayed that his retrenchment is against the principle of natural justice as no enquiry was held against him nor any charge sheet was served, who further asserts that there is no compliance of section 25-F of the Industrial Disputes Act, 1947 and as such prayed that he may be reinstated with all consequential benefits including back wages.

2. On the other hand, the respondents contend that though the petitioner had made a demand notice dated 5.5.1997 after a period of more than 15 years when the petitioner left the service of the respondents, who did not make any representation or request before the respondents for more than 15 years but the petitioner got issued demand notice for his reinstatement along with all consequential benefits in the year 1997 and since the petitioner ceased to be an employee of the respondent w.e.f. 22nd June, 1982, who neither represented nor raised any grievance against the respondent and suddenly in the year 1997, the petitioner realized that injustice has been done upon him, who withheld the material facts from the Court and has mislead the Court and the petitioner was also served memo. by the respondent No.1 on 26.5.1981 regarding irregular attendance and then on 8.2.1982, the petitioner was again issued memo. for illegal absence and was required to submit reply and to explain his absence, who did not respond to show cause notice nor replied the same and as such the services of the petitioner were dispensed with. The petitioner was given sufficient opportunities to explain his position regarding irregular attendance but the petitioner chose not to file reply before the appropriate authority and then the Nahan Foundry has been converted into HPPWD & IPH workshop w.e.f 1.1.1988 and the HPPWD/IPH State workshop is a successor of the respondent and the respondent is not in a position to bear any financial liability being under liquidation.

3. The matter was taken at the level of the conciliation machinery and after its failure, the government has referred the dispute to this Court for adjudication on the following terms:—

“Whether the termination of Shri Sarup Singh S/o Shri Chet Ram, workman by the General Manager, Nahan Foundry Ltd. Nahan District Sirmaur vide office order dated 26.6.1982 without serving charge sheet and without holding enquiry is legal and justified? If not, what service benefits and relief Shri Serup Singh S/o Shri Chet Ram workman is entitled to?”

4. No rejoinder filed. The following issues were framed by this Court on 24.9.2005 on the pleadings of the parties.

1. Whether the termination of services of the petitioner by respondent vide order dated 28.6.1982 without serving charge sheet and without holding enquiry is legal and justified? ...OPR

2. If issue No.1 is not proved to what relief of service benefits the petitioner is entitled to?OPP

3. Whether the petitioner has left the job at his own? ...OPR

4. Relief.

5. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.

6. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under:—

Issue No. 1 :

Yes

Issue No. 2 :

Entitled to be reinstated with seniority and continuity in service but without back wages.

Issue No.3:	No.
Relief :	Reference answered in affirmative per operative part of award.

REASONS FOR FINDINGS

Issue No. 1.

7. Coming to issue No.1, the petitioner has examined himself as PW-1 who has stated that he was engaged by Nahan foundry in 1976, who was removed from service in 1982. He was a regular employee and the persons who were serving with him, their services were taken over by the PWD in 1988. No enquiry nor notice was given to him when he was removed from service. One Govind Ram was removed from service was taken back as per the order of the Court and as such he may also be given the same relief.

8. To rebut the case of the petitioner, the respondents have examined two RWs in all. RW-1 Er. J.K Gupta, Executive Engineer, HPPWD/IPH State Workshop Nahan Foundry, Nahan has stated that 551 employees of M/s Nahan Foundry Ltd. were transferred to HPPWD/IPH workshop Nahan as per terms and conditions Ex. R/1 and list of such employees are Ex. R/2 who were taken into establishment of respondent No.2 & 3 w.e.f. 1.1.1988 and the name of the petitioner is not found mentioned in the list of employees and as such he is not entitled to any claim.

9. RW-2 Chaman Lal Gupta, Incharge Nahan Foundry, Nahan has stated that the Nahan Foundry was transferred to HPPWD Nahan as per settlement and presently it is converted into IPH/PWD workshop and at present there is no permanent employee in the Nahan Foundry. However, the Nahan Foundry has demanded certain staff from the HPPWD/IPH workshop for winding up till the property of the Nahan Foundry is disposed of out of State and the petitioner was in the habit of absenting himself from duty for which he was warned and then he was removed from service by the management in 1982 vide order dated 28.6.1982 and even the petitioner came to the Court after fifteen years of his removal and there is no place where the petitioner can be accommodated and as such he is not entitled for reinstatement.

10. The case of the petitioner is that he being a regular and permanent employee of erstwhile Nahan Foundry Ltd. Nahan was removed from service in 1982 without any notice or charge sheet nor compensation was paid to him at the time of his removal from service nor any domestic enquiry was conducted by the respondent and as such the petitioner is entitled to be reinstated in service with seniority and continuity in service.

11. On the contrary, the respondents contend that the petitioner was habitual defaulter in appearance from time to time who was warned by the respondent and finally the petitioner was removed from service keeping in view his willful absence in service and as such he is not entitled to any relief as claimed by him.

12. I have considered the respective contentions of both the parties and have scrutinized the record of the case.

13. After the close scrutiny of the record of the case, it is clear that it is not disputed by the respondent that the petitioner was not a regular and permanent employee of the then M/s Nahan Foundry Ltd. Nahan who worked continuously for six years from 1976 to 1982 but it remains a fact that no notice nor compensation was paid to the petitioner and no charge sheet was served upon him nor any domestic enquiry was conducted against the petitioner by the respondent at any point of time. Apart from it, it is clear that new management of HPPWD/IPH workshop has taken over the Nahan Foundry Ltd Nahan since 1.10.1988 and as such the worker is even entitled to have the benefit and protection of section 25-F of the Act as the petitioner had completed 240 working days in each calendar year during his tenure preceding his termination. In the instant case, it is not disputed that the petitioner has completed more than 6 years of continuous service. No doubt, the services of 551 employees of Nahan Foundry Ltd. Nahan were taken over by the HPPWD/IPH department w.e.f. 1.1.1988. Apart from it, there is a transfer of all debts and liabilities including assets done by the previous management being the general principle of law and since there is nothing on record which could show that the services of the petitioner were dispensed with in 1982 on account of his illegal absence from duties as there is no record to this effect was proved on record except the cross-examination done on the petitioner on the ground of unauthorized leave and moreover, there is nothing on record which could show that the termination of services of petitioner by the respondent vide order dated 28.6.1982 is legal and valid. On the other contrary, it is proved without serving any charge sheet and without holding enquiry and as such is illegal and unjustified. Accordingly, issue No-1 is decided in favour of petitioner and against the respondents.

Issue No. 2

14. Since I have held under issue No.1 above, that the termination of services of petitioner by the respondent vide order dated 28.6.1982 without serving charge sheet and without holding enquiry is illegal and unjustified and as such the petitioner is entitled to be reinstated in service with continuity and seniority. However, the petitioner is not entitled to any back wages in view of the peculiar circumstances of the case. Accordingly, the issue No.2 is decided in favour of petitioner and against the respondents.

Issue No. 3

15. In support of this issue, no evidence was led by the respondent nor it was pressed during the course of arguments as to show that the petitioner has left the job of his own but he was illegally and wrongly terminated from service by the respondent on 28.6.1982 without serving charge sheet and without holding enquiry is proved on record. In view of no such evidence on record, issue No.3 is decided in favour of petitioner and against the respondents.

RELIEF

As a sequel to my above discussion and findings on issue No. 1 to 3, the claim of the petitioner succeeds and is hereby allowed and the petitioner is ordered to be reinstated in service with seniority and continuity. However, the petitioner is not entitled to back wages in view of the peculiar circumstances of the case and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 28th day of July, 2008 in the presence of parties.

JAGMOHAN SINGH MAHANTAN,
*Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.*

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court, Shimla.

Ref. No. 112 of 2001.

Instituted On : 23.6.2001.

Decided On : 25.8.2008.

Roshan Lal S/o Shri Laiq Ram, R/o Village Ghunsa, P.O Nerwa, Tehsil Chopal District Shimla, HP.
....Petitioner.

VERSUS

Executive engineer, HPSEB, Nerwa (Chopal) Tehsil Chopal District Shimla.

....Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri Gulzar Rathore, Ld. Csl.

For respondent : Shri Bhagwan Chand, Ld. Csl.

AWARD

1. The following reference has been received from appropriate government by this Court for adjudication:—

“Whether the termination of services of Shri Roshan Lal, workman w.e.f. 20.11.1998 by the Executive Engineer, HP State Electricity Board, Division Nerwa Tehsil Chopal District Shimla HP without any notice is legal and justified? If not, to what relief of service benefits and amount of compensation, Shri Roshan Lal is entitled to?”

2. The petitioner has filed a separate claim asserting therein that he was initially engaged as beldar on daily wages basis on 5.7.1996 with the respondent and that after his engagement he worked at HPSEB Division Nerwa Tehsil Chopal District Shimla for construction and repair of HPSEB line, who worked continuously till 25.12.1998 with some fictional breaks and that the services of the petitioner had been terminated on 25.12.1998 in gross violation of the well settled principles of law despite the fact that the respondent has continued the job of similar situated persons and his juniors S/Shri Bhim Singh and Kuldeep Singh having political say are still working with the respondent whereas the petitioner belongs to a poor family, who has been ousted from the job without any valid reasons and that the petitioner made several requests and even visited the office of the respondent time and again with a request that he may be given employment but all in vain and that the services of the petitioner had been terminated finally without following the proper procedure of law as well as the provisions of Industrial Disputes Act, 1947 and the provisions of Industrial establishment (Standing Order) Act, 1946 and the services of the petitioner terminated illegally without assigning any cogent reason and that the petitioner had been working with the respondent with full sincerity, honesty, devotion and zeal, whose services were orally terminated without complying the provisions of section 25-B, 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 and rule 14 (1&2) of the Industrial Establishment (Standing Order) Act, 1946 of HPSEB and that the petitioner ultimately compelled to raise an Industrial Dispute challenging the verbal termination orders and the conciliation meetings failed due to unreasoned attitude of the respondent and as such prayed for reinstatement with retrospective effect along with back wages, regularization and promotion, hence this claim.

3. The respondent resisted and contested the claim of the petitioner, which filed reply inter alia contending that the claim is bad for non joinder of necessary parties and there exists no cause of action in favour of the petitioner and against the respondent. On merits, it is contended that the petitioner was initially engaged as daily wages basis on 5.7.1996 as casual labourer, who worked with the respondent till 20.11.1998 with certain wilful breaks. It is denied that the petitioner worked continuously till 25.12.1998, who worked with the respondent with certain wilful breaks. It is also denied that the petitioner was terminated by the respondent in gross violation of principles of law on 25.12.1998 and the respondent has continued the job of similarly situated persons and the respondent has retained Shri Bhim Singh and Kuldeep Singh in the job. It is contended that both these persons are seniors to the petitioner, who has no right to claim over them. The petitioner has not completed 240 days in a calendar year, who left the job of his own. It is denied that the petitioner visited the office of the respondent for his reengagement several times, who has not written even a single letter to the respondent in order to reengage him and that the respondent has not terminated the services of the petitioner rather the petitioner had left the job at his own and thus, it was not obligatory to the respondent to follow the proper procedure of law and without complying the provisions of section 25-B, 25-F, 25-F and 25-G of the Industrial Disputes Act, 1947 and Rule 14 (1&2) of the Standing orders framed by the Board and as such the petitioner is not entitled to any relief.

4. In the rejoinder, the petitioner controverted the assertions made in the reply and reiterated and reaffirmed the averments of the petition.

5. The following issues were framed by this Court on 6.9.2005 on the pleading of the parties.

1. Whether termination of services of the petitioner by respondent w.e.f. 20.11.1998 without any notice is legal and justified?OPR
2. If issue No.1 is not proved, what relief of service benefits and amount of compensation, the petitioner is entitled to?OPP
3. Whether the petitioner had abandoned the job on his own as alleged?OPR
4. Relief.

6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under:—

Issue No-1:	Yes
Issue No-2:	Not entitled to any relief and amount of compensation.
Issue No.3:	No.
Relief:	Reference answered in negative per operative part of award.

REASONS FOR FINDINGS*Issue No. 1.*

8. Coming to issue No.1, the petitioner examined himself as PW-1 who has stated that he was posted in HPSEB Division Chopal as daily wages on muster roll basis w.e.f. 5.7.1996 to 25.12.1998 whose services were terminated by the respondent orally without any notice. He made several request to the respondent in order to reengage him. Junior persons S/Shri Devinder Lal, Roshan Lal, Dulchi Ram, Kuldeep and Gopi Chand are still working with the respondent, who was removed from service without any reason. The respondent has lot of work. When the respondent did not reengage him, thereafter he raised this Industrial Dispute against the respondent. The respondent has violated the I.D Act as well the provisions of Standing Orders and prayed for reinstatement with back wages and seniority in service. He has completed 240 days in preceding 12 months, who worked continuously with the respondent. No compensation was paid to him and detail of working days with the respondent as they did not disclose it to him.

9. To rebut the case of the petitioner, the respondent has examined Er. Ranja Ram SDO HPSEB Nerwa has stated that the petitioner was engaged on 1.8.1996, who worked with the respondent department till 20.11.1998. The petitioner was not regular in his duties, who was not removed from service but he left the job of his own and proved the mandays chart Ex. RW-1/A, which was prepared on the basis of muster roll. No notice nor compensation was paid to the petitioner as he left the job of his own. No junior to the petitioner are engaged but the persons who are engaged with the petitioner are still working and some of them were regularized.

10. The case of the petitioner is that he being daily wages beldar worked for more than 240 working days in a calendar year preceding his termination and no notice nor any compensation was paid to him at the time of his removal and his juniors S/Shri Devinder Lal, Roshan Lal, Dulchi Ram, Kuldeep and Gopi Chand are still working with the respondent and as such he is entitled to be reengaged with seniority and continuity in service along with back wages.

11. On the other hand, the respondent contends that the petitioner has not completed 240 working days in a calendar year preceding his termination and the petitioner had worked for 151 days from 1.8.1996 to 30.9.1997 and worked for 153 days from 6.10.1997 to 20.11.1998 as is evident from mandays chart Ex. RW-1/A and as such the case of the petitioner does not fall within the ambit of section 25-F of the Industrial Disputes Act, 1947 and no junior to the petitioner are working with the respondent.

12. I have considered the respective contentions of both the parties and have scrutinized the record of the case.

13. After the close scrutiny of the record of the case, it remains a fact that oral testimony of the petitioner is not supported by any document which could show that the petitioner has completed 240 working days in a calendar year preceding his termination. On the other hand, the respondent has proved on record the mandays chart Ex. RW-1/A which shows that the petitioner has completed 151 days from 1.8.1996 to 30.9.1997 who had not worked after 25.1.1997 till 5.10.1997 and has also worked for 153 days from 6.10.1997 to 20.11.1998 and obviously therefore, the petitioner has not completed 240 working days preceding his termination.

14. Now, turning to the other aspect of the case, the petitioner has also not proved on record that his juniors are still working with the respondent. There is nothing on record which could show that when the juniors of petitioner joined the services in order to prove the status of the persons alleged by the petitioner to be his juniors. It is significant to note that the petitioner being workman claimed to have worked for more than 240 working days in a calendar year but as per mandays chart Ex. RW-1/A, the petitioner has not worked for 240 working days in a calendar year. Apart from oral evidence, workman has not produced any evidence to prove the fact that he has worked for 240 days. No proof of receipt of salary or wages or any record or order in that regard was produced: no co-worker was examined; muster roll produced by employer has not been contradicted. Workman has failed to discharge his burden that he was in the employment for 240 days during preceding 12 months of date of termination of his service, hence the petitioner is not entitled for protection of Section 25-F before his service was terminated. Here I am fortified with a view taken by their lordship of Hon'ble Supreme Court in case titled as Surindernagar District Panchyat V/s Dayabhai Amarsinh as reported in AIR 2006 S.C. 110.

15. Apart from it, the petitioner has not proved on record that his junior S/Shri Devinder Lal, Roshan Lal, Dulchi Ram, Kuldeep and Gopi Chand are infact his juniors, who joined the respondent after him and as such he is not entitled for the protection of section 25-G & 25-H of the Industrial Disputes Act, 1947. The petitioner has also tried to establish on record that as per Standing Orders of HPSEB, the mandatory notice giving 10 days to the employee is essential but I am not convinced with this argument as it was held by our own Hon'ble High Court in CWP No. 1383 of 05 dated 18th May, 2007 incase titled as Executive Engineer, HPSEB Joginder Nagar Vs.Sanju & Presiding officer Labour Court-cum- Industrial Tribunal Dharamshala. In which it was held that:—

“In this view of the matter, the Tribunal wrongly relied upon the provisions of the Standing Orders Act to hold that the disengagement is bad for want of issuance of notice giving ten clear days to the employees. Admittedly, the employees had not completed 240 days and the Tribunal could not have come to the rescue of the employee.”

16. In the instant case, the petitioner has not proved on record that he has completed 240 working days, who has only completed 151 days from 1.8.1996 to 30.9.1997 and 153 days from 6.10.1997 to 20.11.1998 as is evident from mandays chart Ex. RW-1/A and on the basis of which, I have no hesitation in coming to the conclusion that the termination of the services of petitioner by respondent without any notice is legal and justified, hence issue No.1 is decided in favour of respondent and against the petitioner.

Issue No. 2

17. Since I have held under issue No.1 above that the termination of the services of petitioner by respondent without any notice is legal and justified having not completed 240 working days in a calendar year preceding his termination, hence the petitioner is not entitled to any service benefits and amount of compensation. Accordingly, issue No.2 is decided in favour of respondent and against the petitioner.

Issue No. 3

18. In support of this issue, no evidence was led by the respondent nor it was pressed during the course of arguments. In view of no such evidence on record, I have no hesitation in holding that the petitioner has not abandoned the job of his own, hence issue No-3 is decided in favour of petitioner and against the respondent.

RELIEF

As a sequel to my discussion and findings on issue No-1 to 3 above, the claim fails and is hereby dismissed and the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today on this 25th Day of August, 2008 in presence of parties.

JAGMOHAN SINGH MAHANTAN

*Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.*

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court, Shimla.

Ref. 120/2001

2.8.2008

Sh. Bhishan Singh V/s M.D.M/s Adhunik package parwanoo, Soaln.

2.8.2008:

Present: Sh Devender Ghosh ,Ld Csl. for petitioner
Sh. Rahul Mahajan Ld,Csl .for the respondent.

Heard. The matter stands compromised . Let the statement of the petitioner be recorded on oath. Statement recorded separately. I am satisfied that the petitioner has received a sum of Rs.43,000/-(Forty Three Thousand Only.)in cash today in the court being the full & final settlement of his claim who now does not want to pursue his claim further, I am also satisfied that the petitioner has made the statement voluntarily and without any extraneous influence influence up on him.

Accordingly ,on the statement of the petitioner and his counsel on record the claim of the petitioner is dismissed as satisfied as a result of which the reference is ordered to be answered accordingly being satisfied. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File , after completion be consigned to records.

Announced
2.8.2008

JAGMOHAN SINGH MAHANTAN,

*Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.*

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court, Shimla.

Ref No. 151 of 2001.

Instituted On.9.8.2001.

Decided On. 12.8.2008.

1. Shri Ranjeet Singh, S/o Chet Ram, R/o Village & P.O Darabala, Tehsil Rajgarh, District Sirmaur, HP.
2. Hari singh, S/o Shri Kami Ram R/o Village Narit, P.O Brabla Tehsil Rajgarh, District Sirmaur, HP.
3. Narayan Singh, S/o Shri Bhoop Singh, R/o Village Jalog, P.O Drabla, Tehsil Rajgarh, District Sirmaur, HP.
4. Rama Nand, S/o Shri Ddaya Ram, R/o Village & P.O Drable Tehsil Rajgarh, District Sirmaur, HP.
5. Om Singh, S/o Shri Dewa Ram R/o Village Shelech, P.O Kotla Bangi, Tehsil Rajgarh, District Sirmaur, HP.
6. Rajinder Singh S/o Shri Bhoop Singh, VPO Drabla Tehsil Rajgarh, District Sirmaur, HP.
7. Deep Ram, S/o Shri Budh Ram R/o Vilage Dhaila, P.O Shergaon Tehsil Rajgarh, District Sirmaur, HP.
8. Khajan Singh, S/o Shri Kalu Ram R/o Village Diber, P.O Deothi Majhgaon, Tehsil Rajgarh, District Sirmaur, HP.Petitioners.

VERSUS

1. The Executive Engineer, H.P State Electricity Board Division Rajgarh at Rajgarh District sirmaur, HP.
2. The Superintending Engineer, H.P State Electricity Board, Circle Nahan at Nahan District Sirmaur, HP.
3. H.P State Electricity Board, through its Secretary Kumar House, Shimla, HP.Respondents

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioners:- Shri R.K Khidta, Ld. Csl.

For respondent:- Shri Atul Jhingan, Ld. Csl.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:—

“Whether the termination of services of S/Shri Ranjeet Singh, S/o Chet Ram, Hari singh, S/o Shri Kami Ram, Narayan Singh, S/o Shri Bhoop Singh, Rama Nand, S/o Shri Ddaya Ram, Om Singh, S/o Shri Dewa Ram, Rajinder Singh S/o Shri Bhoop Singh, Deep Ram, S/o Shri Budh Ram, Khajan Singh, S/o Shri Kalu Ram w.e.f. 15.6.1996 after the completion of 240 days or continuous service by the Executive Engineer, HP State Electrical Board Divisions Rajgarh, District Sirmaur HP without complying the section 25-F/25N of the Industrial Disputes Act, 1947 is legal and justified? If not, what relief of service benefits and amount of compensation, the above said eight workmen are entitled to?”

2. The petitioners have filed a claim pleading therein that they were engaged by the respondents as daily wages beldar on 21.8.1995 who worked as such till 15.6.1996 without any break as per annexures from P-1 to P-8 and that all the petitioners have completed 240 days in a calendar year and that the services of the petitioners have been orally terminated by the respondent No.1 w.e.f. 15.6.1996 without assigning any reason and without complying the mandatory provisions of Industrial Disputes Act, 1947 and as such the respondents have violated sections 25-F & 25-N

of the Industrial Disputes Act, 1947 and that the respondent Board have its Standing Orders whereby it is mandatory to be given ten days notice to the workman even if the workman has not completed 240 days in calendar year and has worked less than one year and as such the respondents have violated the Standing Orders and that all the petitioners have visited the office of the respondents number of times and also gave in writing to reengage them but in vain and that due to the assurance given by the respondents Board that they would be reengaged and the petitioners waited for four years and ultimately, the petitioners were forced to submit demand notice individually to the Conciliation Officer, Solan, the copies of which are annexure P-9 to P16 and that the conciliation proceedings failed due to adamant attitude of respondents and then the matter was referred to this Court and that the respondents Board have reengaged other new persons and the petitioners have not been called which is the clear cut violation of section 25-H of the Industrial Disputes Act, 1947 and terminated the services of petitioner without following the principle of last come first go as the junior persons to be petitioners have continuing in the respondents Board and that the petitioners being the poor man and having no other source of income and the entire family of the petitioners are at the verge of starvation due to wrongful action of the respondent and that the termination of the petitioners in the aforesaid manner tantamount to unfair labour practice of which the petitioners are the victim and the action of the respondents is against the provisions of Industrial Disputes Act and also against the principle of natural justice and that the termination orders of the petitioners passed by the respondent No.1 is wholly illegal, arbitrary, unjust and against the provisions of Standing Order of HPSEB and as such they prayed for all consequential service benefits along with back wages, hence this claim duly supported by an affidavit.

3. The respondents resisted and contested the claim of the petitioners which filed reply inter alia raising preliminary objections of maintainability, barred by delay and laches and that the petitioners are estopped from filing the petition due to their own acts, deeds and conduct and that the petitioners abandoned the job of their own and that the respondent Board has framed the Standing Orders under the provisions of the Industrial Standing Order Act, 1946 covered under factory Act, 1948 and since the petitioners have left their job of his own will, hence the petition is not maintainable. On merits, it is contended that the petitioners were engaged as beldar who worked till 15.6.21996 and that the petitioners have not completed 240 working days in one calendar year and left the job of their own and the job work for which the petitioners were engaged was completed. The petitioners were asked to join the work where it was available but they refused to do so and that the petitioners voluntarily left their job and never came back to work and the petitioners were not retrenched by the respondents. The respondents in no way violated the provisions of section 25-F, 25-H and 25-N of the Industrial Disputes Act, 1947 and as such the provisions of these section are not applicable to the petitioners as they were never retrenched from service and that the petitioners visited the office of the respondents and asked the respondents to retain them at their home place station for work, who refused to move from their home to work and that the petitioners were asked to join work at a place where it was available but the petitioners refused to do so and that the services of the petitioners were never dispensed with, hence the respondents have complied with the provisions of Standing Orders framed by the HPSEB and as such prays for the dismissal of the reference.

4. In the rejoinder, the petitioners have controverted the assertions made in the reply and reaffirmed and reiterated the averments of the petition.

5. The following issues were framed by this Court on 2.1.2002 on the pleadings of the parties.

9. Whether the termination of services of petitioners by respondent No.1 w.e.f. 15.6.1996 is violative of sections 25-F/25-N of the Industrial Disputes Act, 1947? ...OPP
10. Whether reference is not maintainable. ...OPR
11. Whether the petition suffer from delay and laches and if so its effect?OPR
12. Whether the petitioners had abandoned the job as alleged?OPR
13. Relief.

6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings on the aforesaid issues are as under:—

Issue No.1	Partly Yes and partly no.
Issue No.2	No.
Issue No.3	No.
Issue No.4	No.
Relief.	Reference partly allowed per operative part of award.

REASONS FOR FINDINGS

Issue No.1

8. Coming to issue No.1, the petitioners have examined nine PWs in all. Shri Deep Ram appeared into the witness box as PW-1 who has stated that he along with other petitioners had joined the respondents as daily wages beldar on 21.8.1995 in Chandol Section of Electrical Sub division Rajgarh and worked as such till 15.6.1996 and then they were retrenched with the assurance that they would be reengaged as and when the work is available. They approached the authorities many times for their reengagement but without any result and then they submitted applications Ex. PW-1/A to Ex. PW-1/H. They have completed 240 days each during the aforesaid period and then they served the demand notices the copies of which are Ex. PW-1/J and Mark X-1 to X-7, who worked with the respondents as per mandays chart PW-1/K which has been prepared by them and copies of mandays chart qua the petitioners are Mark X-8 to X-14. No notice or compensation was paid to them at the time of their removal and their services terminated orally and their juniors were retained, who are still working and the respondents also made the fresh recruitments.

9. PW-2, Shri Om Singh, PW-3 Shri Khazan Singh, PW-4 Shri Ranjeet Singh, PW-5 Shri Rama Nand, PW-6 Shri Narain Singh, PW-7 Shri Rajinder Singh and PW-8 Shri Hari Singh have corroborated the version of PW-1.

10. PW-9 Shri Susheel Kumar Clerk of HPSEB has stated that he has brought the Standing Orders of HPSEB the copy of which is PW-9/A who had not brought the muster roll for the months of 16.5.1996 to 15.6.1996.

11. To rebut the case of the petitioners, the respondents have examined Er. D.K Sood, Assistant Engineer Electrical Sub Division Rajgarh who has stated that he was authorized by the Additional Superintending Engineer, HPSEB Rajgarh to give the statement and the petitioners have worked with the respondent as per mandays chart Ex. RW-1/A to Ex. RW-1/H. the petitioners have not completed 240 days during calendar year and the petitioners were firstly working at Rajgarh and on completion of work at Rajgrah, they were transferred in some other sub Division under Electrical Division Rajgrah, who refused to join there and they insisted to work in the same sub Division at Rajgarh because the other Divisions were at a distance from their home place and the petitioners never approached the respondents to their reengagement, who were never retrenched by the respondents but they left the job at their own will.

12. The case of the petitioners is that they have worked for more than 240 working days preceding their termination and that no notice nor retrenchment compensation was paid to them before their termination and as such their termination is violative of section 25-F of Industrial disputes Act, 1947 and as such are entitled to be reinstated in service with all consequential benefits.

13. On the contrary, the respondents contend that the petitioners have not completed 240 working days in a calendar preceding their termination and as such are not entitled to be reinstated in job and moreover, the petitioner abandoned the job of their own as they were transferred to other place of working and as such are not entitled to be reinstated in service along with service benefits as prayed by them.

14. I have considered the respective contentions of both the parties and have scrutinized the record of the case.

15. After the close scrutiny of the record of the case, it remains a fact that RW-1 Er. D.K Sood has proved the mandays chart of petitioners which is Ex. RW-1/A to Ex. RW-1/H which would go to show that petitioners S/Shri Deep Ram, Naraian Singh, Rama Nand, Om Singh and Khajan Singh have completed more than 240 days in a calendar year preceding to their termination. However, the remaining petitioners S/Shri Ranjeet singh, Hari Singh and Rajender singh have not completed 240 working days in a calendar year preceding their termination as is evident from their mandays chart Ex. RW-1/A to Ex. RW-1/H placed on record, who have only worked less than 240 working days in a calendar year as the petitioner Hari Singh and Ranjeet Singh have completed 225 working days in a calendar year preceding their termination while petitioner Rajinder Singh has completed 223 working days in a calendar year preceding his termination as per mandays chart Ex. RW-1/E RW-1/F and RW-1/H respectively. No doubt, the Learned counsel for the petitioners has tried to establish on record that no mandatory notice of ten days was given under the Certified Standing Orders of the HPSEB before terminating the services of petitioners and as such in the absence of mandatory notice under the Standing Orders of the respondents, the petitioner are entitled to be reinstated in service with all service benefits. I find no force in this contention as it was held by our own Hon'ble High Court in CWP No. 1383 of 05 dated 18th May, 2007 incase titled as Executive Engineer, HPSEB Joginder Nagar Vs.Sanju & Presiding officer Labour Court-cum- Industrial Tribunal Dharamshala. In which it was held that:—

“In this view of the matter, the Tribunal wrongly relied upon the provisions of the Standing Orders Act to hold that the disengagement is bad for want of issuance of notice giving ten clear days to the employees. Admittedly, the employees had not completed 240 days and the Tribunal could not have come to the rescue of the employee.”

16. Thus, applying the ratio of this ruling to the present case, I am of the firm opinion that only S/Shri Deep Ram, Naraian Singh, Rama Nand, Om Singh and Khajan Singh have completed more than 240 days while S/Shri Ranjeet Singh, Hari Singh and Rajender Singh have not completed 240 working days as per their mandays chart placed on record and the Certified Standing Orders of HPSEB for giving ten days notice to the workmen are not applicable in view of the above cited ruling of the Hon'ble High Court and as such it can safely be concluded that the termination of service of the petitioners S/Shri Deep Ram, Naraian Singh, Rama Nand, Om Singh and Khajan Singh only by respondent No.1 w.e.f. 15.6.1996 is violative of section 25-F of the Industrial Disputes Act, 1947 while the termination of other petitioners S/Shri Ranjeet Singh, Hari Singh and Rajender Singh is not violative of section 25-F of the Industrial Disputes Act, 1947 as they have not completed 240 working days in a calendar year preceding their termination and as such issue No.1 is partly decided in favour of the petitioners S/Shri Deep Ram, Naraian Singh, Rama Nand, Om Singh and Khajan Singh only and against the respondent and other petitioners i.e S/Shri Ranjeet Singh, Hari Singh and Rajender Singh.

Issue No. 2

17. In support of this issue, no evidence was led by the respondent being the legal issue. However, I find nothing wrong with this petition, which is perfectly maintainable in the present form and as such this issue is decided in favour of the petitioners and against the respondents.

Issue No.3

18. In support of this issue, no evidence was led by the respondent being the legal issue. However, I have scrutinized the record of the case and observed that there is no limitation under the Industrial Disputes Act, 1947 as it was held by their lordship of Hon'ble Supreme Court in case titled as Ajayab Singh Vs. Sirhind Co-operative Marketing –cum- processing Service Society Limited and Another reported in (1999) 6 SC 82 in which it was held that:—

“the provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay, if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone” Thus, on the strength of this ruling, it can safely be concluded that there is no limitation under the Industrial Disputes Act, 1947 and as such issue is decided in negative.

Issue No. 4.

19. In support of this issue, no evidence was led by the respondents as to show whether the petitioners have abandoned the job of their own. No doubt RW-1 Er. D.K Sood Assistant Engineer, HPSEB Rajgarh appeared into the witness box, who could not prove on record as to show that he served a notice upon the petitioners even if they failed to join their duties nor no domestic enquiry was conducted before their termination and obviously therefore, it can safely be concluded that the petitioners have not abandoned the job of their own and as such this issue is decided in favour of the petitioners and against the respondents.

RELIEF

As a sequel to my above discussion and findings on Issue No-1 to 4, the claim succeeds partly and is hereby allowed partly and the petitioners S/Shri Deep Ram, Naraian Singh, Rama Nand, Om Singh and Khajan Singh only are ordered to be engaged in service forthwith alongwith seniority and continuity in service with back wages @50% while the claim of the remaining petitioners S/Shri Ranjeet Singh, Hari Singh and Rajender Singh is dismissed as having not completed 240 working days in a calendar year preceding their termination and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records. Announced in the open court today on this 12th day of August, 2008 in the presence of parties.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court, Shimla.

Ref. 242/2002

14.8.2008

Sh Roshan Lal V/s M/s Swastik poly steel Ltd Jabli Distt Solan

14.8.2008 :

Present: Petitioner with Shri J.C. Bhardwaj , Ld,AR for petitioner.
Shri Ramesh Aggarwal with Shri O.P.Sharma,Ld. Csl for respondent.

Heard At this stage the case of the parties stands compromised and the payment of Rs.2,000/-(Two Thousand Only) being full & final settlement made before the Court. Let the statement of Ld. AR for petitioner be recorded. Statement recorded separately.

In view of the statement of Shri J. C. Bhardwaj, Ld. AR for petitioner the claim of the petitioner is dismissed as having been satisfied and as such the reference is ordered to be answered accordingly. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced.

14.8.2008

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court, Shimla.

Ref. 236 /2002

14.8.2008

Smt. Laza Devi V/s M/s Swastik poly steel Ltd Jabli Distt Solan

14.8.2008:

Present : Petitioner with Shri J.C. Bhardwaj , Ld,AR for petitioner.

Shri Ramesh Aggarwal with Shri O.P.Sharma,Ld. Csl for respondent.

Heard At this stage the case of the parties stands compromised and the payment of Rs.2,000/-(Two Thousand Only) being full & final settlement made before the Court. Let the statement of Ld. AR for petitioner be recorded. Statement recorded separately.

In view of the statement of Shri J. C. Bhardwaj, Ld. AR for petitioner the claim of the petitioner is dismissed as having been satisfied and as such the reference is ordered to be answered accordingly. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced.

14.8.2008

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court, Shimla.

Ref. 307/2002

14.8.2008

Sh Devinder Singh V/s M/s Swastik poly steel Ltd Jabli Distt Solan

14.8.2008:

Present: Petitioner with Shri J.C. Bhardwaj , Ld,AR for petitioner.
Shri Ramesh Aggarwal with Shri O.P.Sharma,Ld. Csl for respondent.

Heard At this stage the case of the parties stands compromised and the payment of Rs.2,000/-(Two Thousand Only) being full & final settlement made before the Court. Let the statement of Ld. AR for petitioner be recorded. Statement recorded separately.

In view of the statement of Shri J. C. Bhardwaj, Ld. AR for petitioner the claim of the petitioner is dismissed as having been satisfied and as such the reference is ordered to be answered accordingly. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced.
14.8.2008

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court, Shimla.

Ref. 308/2002

14.8.2008

Smt Hira Devi V/s M/s Swastik poly steel Ltd Jabli Distt Solan

14.8.2008 :

Present : Petitioner with Shri J.C. Bhardwaj , Ld,AR for petitioner.
Shri Ramesh Aggarwal with Shri O.P.Sharma,Ld. Csl for respondent.

Heard At this stage the case of the parties stands compromised and the payment of Rs.2,000/-(Two Thousand Only) being full & final settlement made before the Court. Let the statement of Ld. AR for petitioner be recorded. Statement recorded separately.

In view of the statement of Shri J. C. Bhardwaj, Ld. AR for petitioner the claim of the petitioner is dismissed as having been satisfied and as such the reference is ordered to be answered accordingly. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced.
14.8.2008

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court, Shimla.

Ref. 309/2002

14.8.2008

Sh. Suresh Kumar V/s M/s Swastik poly steel Ltd Jabli Distt Solan

14.8.2008 :

Present : Petitioner with Shri J.C. Bhardwaj , Ld,AR for petitioner.
Shri Ramesh Aggarwal with Shri O.P.Sharma,Ld. Csl for respondent.

Heard At this stage the case of the parties stands compromised and the payment of Rs.2,000/-(Two Thousand Only) being full & final settlement made before the Court. Let the statement of Ld. AR for petitioner be recorded. Statement recorded separately.

In view of the statement of Shri J. C. Bhardwaj, Ld. AR for petitioner the claim of the petitioner is dismissed as having been satisfied and as such the reference is ordered to be answered accordingly. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced.
14.8.2008

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court, Shimla.

Ref. No. 363 of 2002.

Instituted On.14.11.2002.

Decided On. 25.8.2008.

Daulat Ram S/o Shri Hirda Ram, R/o Village Jaishi, P.O Bharara, Tehsil Sunni District Shimla, HP.
....Petitioner.

VERSUS

1. The Superintending Engineer, HPPWD Circle Rampur Tehsil Rampur, District Shimla, HP.
2. The Executive Engineer, HPPWD, Division Kumarsain, Tehsil Kumarsain District Shimla HP.
3. Sub Divisional Officer, HPPWD Sub Division Jalog, Tehsil Sunni, District Shimla, HP.
....Respondents.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner:- Shri Neel Kamal Sood, Ld. Csl.

For respondents:- Shri T.C Kainthla, Ld. DDA.

AWARD

1. The following reference has been received from appropriate government by this Court for adjudication:—

“Whether the demand of the Pardhan HPPWD Labour Union Jalog Tehsil Sunni, District Shimla HP through his demand notice dated 22.4.2001 for the regularization of Shri Daulat Ram S/o Shri Hirda Ram as a Mate w.e.f. 1.1.1995 against the 1) Superintending Engineer, HPPWD Circle Rampur, District Shimla HP. 2) The Executive Engineer, HPPWD Division Kumarsain District Shimla HP is proper and justified ? If yes, what reliefs the above workman is entitled to?”

2. The petitioner has filed a separate claim asserting therein that he was initially engaged as Mate in the year 1983 in the office of respondent No.3 who was issued the muster roll of Mate and rate thereof was also paid to him. The petitioner continued to work as Mate for some time and then keeping in view his satisfactory work, the department decided to designate the petitioner as Head Mate, who was duly issued muster roll of Head Mate and wages thereof were also paid to him and then he was designated as Supervisor and muster roll and wages thereof were also given to him. The petitioner continued working as Supervisor for some time and then he was designated as Mortar Mate, who continued to work on the aforesaid various posts with full sincerity, honesty, devotion, missionary zeal as well to the utmost satisfaction of his superiors and that after serving with the respondent for long spell, the petitioner was issued regularization order vide order dated 16.11.1996 as beldar and the regularization has been ordered to be in force w.e.f. 1.1.1995 but the petitioner is astonished to know that instead of regularizing him as Head Mate or Supervisor, he was regularized as beldar and the factum of the petitioner to be working as Mate etc. is evidently clear from the casual cards and when the petitioner never worked as beldar, the respondents have no right to regularize him as beldar who ought to have been regularized on the post of Supervisor or Head Mate but due to illegal and arbitrary as well as discriminatory attitude of the respondents, the petitioner has been regularized as beldar and that the petitioner made various verbal requests to the respondents to regularize him as Mate/ Supervisor but in vain and his juniors as well as similarly situated persons have been regularized on the same posts on which they were working prior to their regularization order on daily wages basis and the names of few of the similarly situated and juniors are S/Shri Moth Ram, Prem Chand Khub Chand, Chet Ram and Shonk Ram etc. and having felt aggrieved by this discriminatory and arbitrary action of the respondents, the petitioner made various representations to the respondents praying for his regularization as Mate/Supervisor but the respondents did not adhere the genuine requests of the petitioner and the rules and the law of the land having totally ignored and as such the respondents cannot be allowed to adopt the policy of pick and choose and hire and fire and double standard having been done in this case and that the petitioner when heard nothing from the respondents had no alternative but was compelled to raise an Industrial Dispute challenging the discriminatory attitude and regularization order as of beldar, hence this claim.

3. The respondents resisted and contested the claim of the petitioner, which filed reply inter alia raising preliminary objections of maintainability, barred by limitation and having no cause of action in favour of petitioner and against the respondent. On merits, it is contended that the petitioner was initially engaged in the department in the month of July, 1984 in the capacity of Mate and then he worked on different posts of daily wages basis such as Mate, Beldar, Supervisor, Chowkidar, Mortar Mate, Head Mate, Drill Man etc. as per approved policy of government. The petitioner has been regularized as a work charged beldar w.e.f. 1.1.1995 because of regularization on higher post of 10 years continuous service on that post is essential and it is denied that the petitioner never worked as beldar. The petitioner could not be regularized as Mate/ Supervisor as he had not completed 10 years of continuous service as a Mate/Supervisor. As per requirement of Government policy, one has to complete ten years of service on a particular post including higher post to become eligible for regularization in that post and that the allegations made by the petitioner about his junior persons appointed by adopting the policy of pick and choose is wrong and a proper seniority register has been maintained in the department and names of the eligible persons are sent to the Government with recommendations for regularization. However S/Shri Moti Ram and Prem Chand have been regularized as work charged beldar and at present they are working under HPPWD B&R Sub Division Sunni. The petitioner had worked as beldar for most of the period as per seniority list, hence the petitioner is not entitled for regularization as Mate/Supervisor.

4. In the rejoinder, the petitioner controverted the assertions made in the reply and reiterated and reaffirmed the averments of the petition.

5. The following issues were framed by this Court on 2.9.2004 on the pleading of the parties.

5. Whether demand of Pradhan, HPPWD, Labour Unit Jalog Tehsil Sunni through his demand notification dated 22.4.2001 for regularization of the petitioner Shri Daulat Ram w.e.f. 1.1.1995 is proper and justified?

.....OPR

6. Whether the petition is not maintainable ?OPR
7. Whether the petition is bared by limitation?OPR
8. Whether there is no enforceable cause of action against the petitioner?OPR
9. Relief.

6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under:—

Issue No. 1:	No.
Issue No. 2:	No.
Issue No. 3:	No.
Issue No. 4:	No.
Relief:	Reference answered in negative per operative part of award.

REASONS FOR FINDINGS

Issue No-1.

8. Coming to issue No.1, the petitioner examined himself as PW-1 who has stated that he was engaged as a Mate in HPPWD Sub Division Sunni, w.e.f. 1983 who continued as such upto 1986 then he worked as Supervisor upto 1995 and his services were regularized as beldar w.e.f. 1.1.1995. He was paid the salary of Supervisor for the period he had worked as Supervisor and he was also assigned the duties of Head Mate, Mortar Mate, Driller, Chowkidar etc. and prayed for his regularization as a Supervisor instead of beldar with seniority and continuity in service. However, he has admitted his categorywise detail of his working days from 1984 to 1994 as shown in Ex. R/A

9. To rebut the case of the petitioner, the respondents have examined Er. Lekh Ram Sharma, Assistant Engineer, HPPWD Jalog as RW-1 who has stated that he is conversant with the facts of the case of the petitioner. The petitioner worked in different categories as per detail given in Ex. RW-1/A who worked as beldar for maximum number of days during the period he worked in the department as per the policy of the government. The petitioner was to be regularized as beldar as he worked in this capacity for a maximum period. Initially, the petitioner, Shonk Ram, Khumb Ram were regularized as beldars and only Shonk Ram, Khumb Chand and Dewan Chand were qualified to become as Mate as per order Ex. RW-1/B at the time of DPC, who were middle pass whereas then petitioner was fifth pass.

10. The case of the petitioner is that he is entitled to be regularized as Mate/Supervisor w.e.f. 1.1.1995 but not as a beldar who worked on different categories as Mate, Supervisor, Head Mate, Chowkidar, Drill Man and Mortar Mate with the respondents.

11. On the contrary, the respondents contends that the petitioner put in maximum period of service as beldar and not as Mate/Supervisor who was rightly regularized as beldar as per the policy of the State Government and even the petitioner is only fifth pass and as such under qualified, who could only be made regular as Mate/Supervisor if he has qualifying service of ten years on higher post and also middle pass.

12. I have considered the respective contentions of both the parties and have scrutinized the record of the case.

13. After the close scrutiny of the record of the case, it remains a fact the petitioner is under qualified being primary pass whereas his other colleagues S/Shri Shonk Ram, Khumb Chand and Dewan Chand were made regular as Mate as per order Ex. RW-1/B being middle pass. Apart from it, it is proved on record that the petitioner could only be made regular as Mate/Supervisor, if he has qualifying service of ten years on higher post at his credit and having middle pass.

14. In the instant case, the petitioner has completed 1493 ½ days as beldar, 691 ½ days as Mate, 743 ½ days as Supervisor 27 days as Chowkidar, 31 days as Mortar Mate, 291 days as Head Mate 194 ½ days as Drill Man and as such the petitioner has put in the maximum period of 1493 ½ days as beldar as is evident from the category wise details of the petitioner Ex. RA which the petitioner has accepted to be true and correct in his statement and obviously

therefore, having regard to the qualification of the petitioner being primary pass and having not completed the maximum period of higher post put in against that post as Mate/supervisor as is evident from Ex. RA, who was rightly made regular as beldar by the respondent by considering the case of petitioner justly and rightly and as such, the demand of Pradhan, HPPWD labour Unit Jalog Tehsil Sunni through his demand notification dated 22.4.2001 for regularization of petitioner Shri Daulat Ram w.e.f. 1.1.1995 is improper and unjustified, hence cannot be accepted. Accordingly, issue No.1 is decided in favour of the respondent and against the respondent.

Issue No.2

15. In support of this issue, no evidence was led by the respondents being the legal issue. However, I find nothing wrong with this petition which is perfectly maintainable in the present form, hence the issue No.2 is decided in favour of petitioners and against the respondents.

Issue No. 3.

16. In support of this issue, no evidence was led by the respondents. However I have scrutinized the record of the case and observed that there is no limitation under the Industrial Disputes Act, 1947 as it was held by their lordship of Hon'ble Supreme Court reported in (1999) 6 SC 82 case titled as Ajayab singh Vs. Sirhind Co-operative Marketing –cum- processing Service Society Limited and Another. In which it was held that:—

“the provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”

Accordingly, on the strength of this ruling, it can safely be concluded that there is no limitation under the Industrial Disputes Act, 1947, and as such issue is decided in negative.

Issue No. 4

17. In support of this issue, no evidence was led by the respondent being the legal issue. However, there is nothing on record which could show that there is no enforceable cause of action against the petitioner, hence issue No.4 is decided in negative.

RELIEF

As a sequel to my above discussion and findings on Issue No-1 to 4, the claim of the petitioner fails and is hereby dismissed and the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 25th day of August, 2008 in the presence of parties.

JAGMOHAN SINGH MAHANTAN,
*Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.*

**In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-
Labour Court Shimla**

Ref No. 138 of 2004

Instituted On:-6.12.2004

Decided On:- 26.8.2008

Dola Ram S./o Shri Lekh Ram, Village Nadohat, P.O Hinri, Tehsil Sunni, District Shimla, HP

...Petitioner

Versus

HP Khadi and Village Industries board, Cleave Land, Shimla through its Chief executive Officer.

...Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner:- Shri Satyen Vaidya, Ld. Csl.

For respondents:- Shri Sanjay Thakur, Ld. Csl.

AWARD

1. The following reference has been received for the adjudication by this Court from the appropriate government:—

“Whether the removal of services of Shir Dola Ram S/o late Shri N.R Sharma by the Chief Executive Officer, HP Khadi & Village Industries Board Cleave Land, Shimla 171004 w.e.f. December, 1999 without complying the provisions of the Industrial Disputes Act, 1947 is proper and justified? If not, what relief of service benefits Shri Dola Ram workman is entitled to?”

2. The petitioner has filed a claim asserting therein that he had worked as daily wages clerk/ helper in the establishment of respondent initially from October, 1995 to December, 1993 and thereafter continuously from September, 1994 to November, 1996 who remained under mental depression from December, 1996 to March, 1998 and remained under treatment from psychiatry department of IGMC Shimla therefore due to these circumstances, the petitioner could not work during the said period and the fact of the petitioner being indisposed due to the mental depression was very much within the knowledge of respondent as the respondent intimated in this behalf to the petitioner and that the petitioner was again allowed to work as daily wages clerk w.e.f. 20.4.1998 by the respondent till 19.6.1998 and then till 31st December, 1999 and during this period, the petitioner was not paid the salary for the period from 20.6.1998 to 2.6.1998 and 1.10.1999 to 31.10.1999 on the pretext that sanction in this behalf was not accorded by the appropriate authority of respondent and since the petitioner had continuously worked for respondent w.e.f. 20.4.1998 till 31.12.1999 and especially the respondent had taken full working hours of the petitioner on duty for the period 20.6.1998 to 2.10.1998 and 1.10.1999 to 31.10.1999 and as such the petitioner is entitled to full permissible wages for the said period and that during the period of 20.4.1998 to 31.12.1998, the petitioner was discharging the duties of salesman and clerk as per the directions of the respondent and the petitioner worked during the period continuously to the satisfaction of respondent and there was no charge or enquiry against the petitioner during the entire period when the petitioner served the respondent and that the petitioner had completed 240 days of service with respondent and the petitioner was not allowed to work w.e.f. 1.1.2000 by the respondent without any justifiable cause despite the fact that the respondent had sufficient work with it and that the retrenchment of petitioner by the respondent is illegal and against the mandatory provisions of section 25-F of the Industrial Disputes Act, 1947 and the petitioner qualified all the requirements to be termed as workman. No notice nor any wages in lieu of the statutory notice was paid nor any retrenchment compensation was paid to the petitioner by the respondent and the petitioner is also entitled to regularization in service as having worked with the respondent since October, 1993 to 31.12.1999 except for the period of his illness and even other persons had been given benefits of regularization by the respondent and the petitioner had been represented his case to the respondent from time to time but the respondent has wrongly and illegally denied the claim of the petitioner, hence this claim.

3. The respondent resisted and contested the claim of the petitioner, which filed reply inter-alia raising preliminary objections of estoppel, suppressing material facts and the reference is totally different from the claim of the petitioner. On merits, it is contended that the petitioner was engaged as salesman on daily wages basis in October, 1993 who worked upto Jan. 1994 and then the petitioner was reengaged as helper in September, 1994 and worked till November, 1996 as per requirement of the work from time to time. However, it is denied that the petitioner remained under mental depression from December, 1996 to March, 1998 as the petitioner never informed the respondent department to his illness and the petitioner discontinued his service. It is contended that as per annexure R-1 the petitioner was engaged as daily paid clerk in April, 1998 who continued as such till Feb. 1999 and then the petitioner was engaged in October, 1998 who worked as such till December, 1999. It is denied that the petitioner is entitled for the payment of salary w.e.f. 20.6.1998 to 2.10.1998 and 1.10.1999 to 31.10.1999 as the petitioner has never been engaged by the respondent Board during this period, hence the question of payment of salary does not arise and the petitioner engaged as and when required and not on regular basis. It is admitted to the extent that the petitioner had completed 240 days in the year 1995 and 1996 and then the petitioner without information did not report for duty after November, 1996 for more than one and half year, hence the claim of the petitioner cannot be considered and presently there is no requirement of daily wages as such the Board is not in a position to engage him and the petitioner himself had not reported for duties and the respondent Board never retrenched the services of the petitioner, who himself

absented from duties and as such the case of petitioner not regulated by section 25- F but his case is covered under section 25-F (ii) of the Industrial Disputes Act as the petitioner did not report for duties and the respondent Board was engaging daily wages on need basis as per requirement and not on regular basis and that the Finance Department Government of Himachal Pradesh has issued instructions that no such powers has been delegated to any authority and instance of engaging daily wages personnel without concurrence of the Finance Department is contravention of Government orders inviting disciplinary action.

4. In the rejoinder, the petitioner controverted the assertions made in the reply and reaffirmed and reiterated the averments of the petition.

5. The followings issues were framed by this Court on 10.1.2006 on the pleadings of the parties.

1. Whether the services of petitioner has been illegally terminated by the respondent in violation of the provisions of I.D Act, 1947?? If so its effect?OPP
2. If issue No-1 is proved in affirmative to what relief of service benefits the petitioner is entitled to? ...OPP
3. Whether the petition in the present form is not maintainable?OPR
4. Whether the petitioner is estopped to file the present petition due to his own act, conduct and acquiescence? ...OPR.
5. Relief.

6. I have heard the Learned Counsels for the parties and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings on the aforesaid issues are as under:—

Issue No.1	Yes.
Issue No.2	Entitled for reinstatement with seniority and continuity in service but without back wages. .
Issue No.3	No.
Issue No.4	No.
Relief.	Reference answered in affirmative per operative part of the award.

REASONS FOR FINDINGS

Issue No.1

8. In order to prove this issue, the petitioner has examined two PWs in all. Shri Dola Ram appeared into the witness box as PW-1 who has stated that he was engaged as daily wages clerk with HP Khadi Village Industries Board, Shimla in October, 1993 where he worked till December, 1999. He remained under medical leave from November, 1996 to March, 1998 for his medical treatment as he was suffering from mental disorder. On April, 1998 he made an application to the respondent for sanction of his leave. He has completed 240 working days in a calendar year preceding his termination. He also made an application to Senior Medical superintendent IGMC Shimla for his medical examination and also to issue him a medical certificate, the copy of which is Ex. PA. He also requested the respondent to regularize his services. His junior are still working with the respondent, who are made regular by the respondent. He had informed the respondent while proceeding on medical leave. No notice nor compensation was paid to him at the time of his retrenchment. He prayed that he may be reinstated with seniority and continuity in service along with back wages.

9. PW-2 Shri Jeet Ram Thakur, Superintendent Grade-1 P Khadi Board Shimla has stated that he has been posted as Superintendent Grade-1 of HP Khadi Board Shimla-4 since 1980. He is well conversant with the facts of the case, who brought the record of the case. The petitioner worked from October, 1993 to December, 1999 with fictional breaks and proved the mandays chart of the petitioner Ex. PB which is correct as per original.

10. To rebut the case of the petitioner, the respondent as examined Shri Tara Chand who has stated that he is well conversant with the facts of the case and brought the record of the case. The petitioner was engaged as a helper by the respondent in October, 1993, who continued as such till December, 1993. The petitioner was reengaged in Jan. 1994 and worked as such for 19 days and then the petitioner was reengaged in September, 1994 and worked as such till Feb. 1995. The petitioner was reengaged in April, 1995 and worked till November, 1996 and then the petitioner abandoned the job of his own who was reengaged in April 1998 and worked for 46 days on the sanction of 60 days granted by the Chairman of respondent Board. Again the sanction Ex. RA for 60 of September & October, 1998 was received but the petitioner did not work in September, 1998, who worked for 28 days in October, 1998 and again the sanction Ex. RB for 60 days received for November & December, 1998 who worked for 60 days. Again sanction Ex. RC was received for 60 days for Jan & Feb, 1999 who worked for 57 days and as per sanction Ex. RD & RE was received who worked for 109 days and then no sanction was received in October, 1999 from the Chairman of respondent Board. In November, 1999, the petitioner was engaged for 60 days, who worked for 52 days. The petitioner was paid the entire salary of the work put in by him. The petitioner was engaged for specific period for specific work. After 1999 only the Finance Department of Govt. of Himachal Pradesh is competent to grant the sanction for engagement of workman and no workman was engaged after 1999. The petitioner never informed the respondent Board about his illness at any point of time, who represented his case for the first time in March, 2002. The petitioner has not completed 240 working days in 1999 preceding his abandonment of job. The respondent Board is having no requirement of post for the petitioner at present. However, he has admitted in the cross examination that Ashok Kumar has been working since 1993 till date.

11. The case of the petitioner is that he had completed 240 working days in a calendar year preceding his termination and no notice nor compensation was paid to him at the time of his termination and his case falls under the protection of section 25-F of the Industrial Disputes Act, 1947 and as such he is entitled to be reinstated with all consequential benefits including back wages.

12. On the contrary, the respondent contends that the petitioner was engaged for specific period on the basis of the need of work and as such the petitioner has no right to the post.

13. I have heard the respective contentions of both the parties and have gone through the record of the case.

14. After the close scrutiny of the record of the case, it remains a fact that the petitioner was suffering from mental disorder as he remained under medical treatment of psychiatry department of IGMC Shimla and even the petitioner requested the Senior Medical Superintendent IGMC Shimla to issue medical fitness certificate to him after his medical examination as is evident from Ex. PA. On the other hand, the respondent has tried to establish on record that no intimation was given by the petitioner for suffering with mental disorder but it remains a fact that even after the prolonged illness of petitioner from December, 1996 to March, 1998, the petitioner was again allowed to work as daily wage w.e.f. 20.4.1998 to 19.6.1998 and thereafter till 31.12.1999. It is significant to note that PW-2 Shri Tara Chand Superintendent Grade-1 of the respondent Board has proved the mandays chart of the petitioner Ex. PB which shows that the petitioner has completed 328 days in 1995 and 307 days in 1996 respectively and even the petitioner has put in 218 working days in 1999 after giving him fictional breaks in the month of March, April & May. No doubt that the petitioner could not complete 240 working days in the year 1999 when his services were retrenched. However, it is well settled that continuing of 240 days is not necessary for the calendar year preceding his termination but any of the calendar year in which the petitioner completed 240 days can be taken into consideration. Here I am fortified with a view taken by their lord ship of Hon'ble Supreme Court in case titled as Shriram Industrial Enterprises Ltd. Vs. Mahak Singh and others as reported in (2007) 4 Supreme Court Cases 94 in which it was held that:—

“The exclusion of the word preceding from section 2(g) of the U.P Act indicates that a workman in order to be in continuous service may have worked continuously for a period of 240 days in any calendar year during his period of service.”

15. Thus, having regard to the entire facts and circumstances on record and on the strength of this judgment it can safely be concluded that the period of working days put in by the petitioner in 1995-96 for more than 240 days can also be considered for the purpose of protection of section 25-F of the Industrial Disputes Act, 1947.

16. Now advertent to the other aspect of the case, Shri Amit Sharma Ld. vice Csl. for petitioner has strenuously argued that junior to petitioner are still working with the respondent department which was admitted by RW-1 Shri Tara Chand Verma in his cross examination that Ashok Kumar has been working since 1993 till date and S/Shri Lekh Ram, Bhupinder and Ramesh were made regular as per policy of government and as such the contention of petitioner is that his junior Ashok Kumar has been retained in service who is still working with the respondent is fully proved on record and thus there was a breach of section 25-G & H of the Act. In support of his contention he has relied upon 2007 LLR 72 SC incase titled as State of Haryana Vs. Dilbagh Singh. In which it was held that:—

“Respondent was serving as beldar in PWD (B&R) and his services were terminated on 25.12.1999-Labour Court found that person junior to respondent was still working and thus there was breach of section 25-G and 25-H of the Act. Court directed reinstatement.”

17. Thus, having regard to the entire evidence on record and in view of the fact that RW-1 has admitted that Suresh Kuamr joined the services in 1993 who is still working with the respondent and as such there is complete breach of section 25 H & 25-G of the Act. Lastly even if the petitioner remained absent and failed to report for duties, it was imperative to follow the principles of natural justice by giving an opportunity. In the instant case, the respondent has not given an opportunity to the petitioner to resume his duties and other workmen working with the respondent are still working and were made regular as admitted by RW-1 and as such there is violation of principle of natural justice. Here I am fortified with a view taken by their lord ship of Hon’ble supreme Court in case titled as M/S Scooter India Ltd. Vs. M. Mohd. Yaqub reported in 2001 LLR 54 SC.

18. Thus, having regard to the entire evidence on record, it can safely be concluded that the services of petitioner has been illegally terminated by the respondent in violation of provisions of industrial Disputes Act, 1947. Accordingly issue No.1 is decided in favour of the petitioner and against the respondent.

Issue No.2

20. Since I have held under issue No.1 above, that the petitioner was illegally terminated by the respondent in violation of provisions of I.D Act, 1947, hence the petitioner is entitled to reinstatement with continuity and seniority but without back wages in view of the peculiar circumstances of the case. Accordingly this issue is decided in favour of petitioner and against the respondent.

Issue No. 3.

21. In support of this issue, no evidence was led by the respondent nor it was pressed during the course of arguments. However, I find nothing wrong with this petition which is perfectly maintainable in the present form. Accordingly, this issue is decided in favour of the petitioner and against the respondent.

Issue No. 4

22. In support of this issue, no evidence was led by the respondent as to how the petitioner is estopped from filing the petition by his own acts, conduct and acquiesces. In view of no such evidence on record, it can safely be concluded that the petitioner is not estopped from filing the petition by his own acts, conduct and acquiesces, hence this issue is decided in favour of petitioner and against the respondent.

RELIEF

As a sequel to my above discussion and findings on issue No. 1 to 4, the claim of the petitioner succeeds and is hereby allowed and the petitioner is ordered to be reengaged in service with seniority and continuity but without any back wages in view of the peculiar circumstances of the case and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 26th day of August, 2008 in the presence of parties.

JAGMOHAN SINGH MAHANTAN,
*Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.*

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla

Ref No. 21 of 2005

Instituted On 18.2.2005

Decided On. 5.8.2008.

Yash Pal S/o Shri Devi Ram, R/o Village Daskana, P.O Korag, Tehsil Sangrah, District Sirmaur, HP.

.....Petitioner.

VERSUS

1. The Regional Potato Development Officer, with Headquarters at Rajgarh, District sirmaur, HP.
2. The Incharge, Potato Development, Station Thyanbag, District sirmaur, HP. ...*Respondents.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner:- Shri G.S Ahir, Ld. Csl.

For respondent:- Shri T.C Kainthla, Ld. DDA.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:—

“Whether the termination of services of shri Yash Pal S/o Shri Devi Ram, Ex. Daily wages beldar by the Regional Potato Development Officer, Rajgarh District Sirmaur, HP w.e.f. March, 1995 as alleged by the workman without complying the provisions of the Industrial Disputes Act, 1947 is proper and justified? If not, what relief of service benefits and amount of compensation Shri Yash Pal workman is entitled to?”

2. The petitioner has filed a separate claim pleading therein that he was initially appointed as daily rated beldar with the respondent in Jan. 1994 who worked with the respondents on the wages prescribed by the government from time to time without any break and the work and conduct of the petitioner had been appreciated by the respondents and there was no complaint against the work and conduct of the petitioner and that the respondent No.2 straightaway refused the petitioner to perform his duties in the year March, 1995, when the petitioner reported for his duties and asked that his services were no longer required and stood terminated with immediate effect and that the petitioner had completed 240 days in a calendar year but despite this fact his services were orally and illegally terminated for the reasons best known to the respondents and that while terminating the services of the petitioner, the respondent did not adhere to comply with the well settled position of law as the services of the petitioner were terminated and junior to him were allowed to continue in the service and even the respondents have engaged fresh hands namely Jeet Singh, Ram Swaroop and Ramesh in the employment and that the respondents were duty bound to give one month notice under section 25-F and compensation under section 25-F(b) of the Industrial Disputes Act, 1947 on account of service rendered by him and that the respondents allowed juniors to petitioner to work and even engaged fresh persons from time to time and as such the action of the respondents is also violative of principle of last come first go and that the petitioner was some time asked to sign on a blank paper duly pasted with revenue stamp where he received his wages but it could not be understood that why the petitioner was asked to sign on a blank paper at the time of receiving his monthly wages and that the action of the respondents is arbitrary, illegal, discriminatory, unconstitutional and violative of Article of 14 and 16 of the Constitution of India and that the petitioner had made several representations seeking reemployment by visiting the office of the respondents number of times but the respondents assured and allured that as and when his services would be required, he would be called but in vain and the petitioner was ultimately compelled to raise Industrial Dispute challenging the verbal termination order, hence this claim duly supported by an affidavit.

3. The respondents resisted and contested the claim of the petitioner which filed reply inter alia raising preliminary objections of delay and laches and the Agriculture Department deals with government activities and does not fall in the ambit of Industrial as defined under section 2(J) of the Industrial disputes Act, 1947 and that the petitioner cannot maintain this application being devoid of any merit. On merits, it is contended that the petitioner was engaged as casual labour on muster roll basis at Potato Development Station Thaybag on 23.5.1994 against seasonal work, who abandoned his work of his own w.e.f. 15.9.1994 for the reason best known to him, who worked with the respondents only for 115 days from 23.5.1994 to 15.9.1994 and that the petitioner never worked for 240 days in a calendar year who was not retrenched by the respondent and that the question of deviation from the principle of last come first go/juniors/fresh hands arises only if the respondent had terminated the services of petitioner but when the petitioner abandoned his work of his own then this principle could not be made applicable as the petitioner himself deserted the work who never approached the respondents for seeking the work. It is also contended that neither the petitioner asked to sign on blank paper duly pasted with the revenue stamp where he received his wages nor gave any direction to sign the paper.

4. In the rejoinder the petitioner controverted the assertions made in the reply and reaffirmed and reiterated the averments of the petition.

5. The following issues were framed by this Court on 27.4.2006 on the pleadings of the parties.
1. Whether the service of petitioner has been illegally terminated by respondent without complying the provisions of I.D Act, 1947? If so, its effect? ...OPP.
 2. If issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled to?OPP.
 3. Whether the present petition is not maintainable?OPR.
 4. Whether the present petition is barred by limitation?OPR.
 5. Relief.
6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.
7. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under:—

Issue No.1	No.
Issue No.2	Not entitled to any relief.
Issue No.3	No.
Issue No.4	No.
Relief.	Reference answered in negative per operative part of award.

REASONS FOR FINDINGS

Issue No.1

8. Coming to issue No.1, the petitioner examined himself as PW-1 who has stated that he was engaged in Chanva Potato Centre in March, 1994 as beldar who worked for 1½ year. He was removed from service in May/June 1995. No appointment letter was given to him at the time of his engagement who worked for more than 240 days in a calendar year. No notice or compensation was paid to him. Department has engaged S/shri Jeet Singh, Ramesh Thakur and Swarup who are still working. He visited the respondent office for his reengagement but he was not engaged. He filed a case before Hon'ble High Court for his reengagement which was sent to Labour Court and as such he prayed that his claim may be allowed.

9. On the contrary, the respondents examined Shri Panna Lal, RPDO Rajgrah, who has stated that the petitioner was engaged as casual labourer for the seasonal work in 1994 who worked for 115 days, the mandays chart is Ex. RA. They engaged the labour for casual work. They have not terminated the services of the petitioner, who left the job of his own and the petitioner never met him even for the last two years for any seasonal work.

10. The case of the petitioner is that he was engaged by the respondent department as daily wages beldar in the year 1994 who worked for 1½ year. He was removed from service in May/June 1995 who has completed 240 days in a calendar year preceding to his termination as required under section 10 of the Industrial Disputes Act, 1947 and as such he is entitled for his reengagement with seniority and continuity in service.

11. On the other hand, the respondents contend that the petitioner was engaged for seasonal work which is temporary in nature. The petitioner never completed 240 days in a calendar year preceding his abandonment. The petitioner was never retrenched from service by the respondent, who left the job of his own and he is not entitled to any relief and moreover, no junior of petitioner was retained in service and as such, no notice or compensation was required to be given to the petitioner.

12. I have considered the respective contentions of both the parties and have scrutinized the record of the case.

13. After the close scrutiny of the record of the case, I am satisfied that the petitioner has not proved on record that he has completed 240 working days preceding his termination. Moreover, there is mandays chart Ex. RA on

record which shows that the petitioner has completed only 115 working days preceding his termination. Apart from it, there is nothing on record which could show that the junior to petitioner are still continuing with the respondent. It is significant to note that no record from the respondent was summoned in order to show that S/shri Jeet Singh, Ramesh Thakur and Swarup are the juniors to the petitioner and are still continuing with the respondent as beldars on daily wages. Their joining record has not been proved on record by the petitioner. It is well settled that where the workman has not produced any evidence to show that he had worked for more than 240 working days preceding his termination and that no evidence has been led in order to show that his juniors are still working with the respondent, the petitioner is not entitled to any protection under the provisions of the Industrial Disputes Act, 1947. Here I am fortified with a view taken by their lordship of Hon'ble Supreme Court in AIR 2006 S.C. 110 case titled as Surindernagar District Panchyat V/s Dayabhai Amarsinh in which it was held that:—

“In case workman claims to have worked for more than 10 years as daily wagger—Apart from oral evidence workman has not produced any evidence to prove fact that he has worked for 240 days---No proof of receipt of salary or wages or any record or order in that regard was produced: no co-worker was examined; muster roll produced by employer has not been contradicted—Workman has failed to discharge his burden that he was in employment for 240 days during preceding 12 months of date of termination of his service—Workman not entitled for protection of Section 25-F before his service was terminated.”

Apart from it, it was further held in (2006) 6 SCC 221, case titled as Reserve Bank of India V. Gopinath Sharma & Anr. In which it was held that :—

“Workman not appointed to any regular post but engaged on the basis of need of work on day to day basis, held, had no right to the post.”

14. Similarly, it was held in (1997)-II SCC 521 case titled as Escorts Limited V. Presiding Officer & Anr. in which it was held that:—

“Terms of appointment enabling the employer to terminate the services at any stage without assigning any reason. In such circumstances, termination of service under the said terms even though effected before the expiry of the specified period, held, did not amount to retrenchment, hence did not attract section 25-F & 25-G of the Industrial Disputes Act, 1947.”

15. I have also observed that the petitioner as PW-1 has admitted in the cross examination that he was engaged for sawing of potatoes in Shan Bag Farm and the potato crop is a seasonal work of about six months. It was held in 2006 LLR 1233 SC in case titled as Vidya Vardhaka Sangha & Anr. V. Y.D Deshpande & Ors. in which it was held that:—

“the appointment made on probation/ad-hoc basis for a specific period of time comes to an end by afflux of time and the person on such post can have no right to continue on the post. When after having accepted the terms and conditions stipulated in the appointment letter and allowed, the period for which they were appointed has been elapsed by efflux of time, they cannot be permitted to challenge the validity of their termination.

16. It was also held in 2006 (2) SCC 794 in case titled as Haryana State Agricultural Marketing Board V. Subhash Chand & Anr. In which it was held that:—

“If nature of service does not come within purview of definition of retrenchment in section 2(oo), question of applicability of section 25-G does not arise. Bare perusal of offer of appointment (set out in para 2 herein) clearly shows that respondent was appointed on seasonal contracts. Hence, respondent not having been reengaged on expiry thereof, he was not retrenched within meaning of section 2(oo), and his case fell exception in section 2(oo)(bb). Hence, section 25-G was inapplicable in his case and dispensing with engagement of respondent cannot be said to be unwarranted in law.”

Thus, having regard to the entire evidence on record, it can safely be concluded that the petitioner was engaged for seasonal work who did not complete 240 working days preceding his termination nor his juniors are proved to be continuing in service after his removal and obviously, therefore it can safely be concluded that the services of petitioner has not been terminated illegally by the respondent without complying the provisions of Industrial Disputes Act, 1947.

Accordingly issue No.1 is decided in favour of respondent and against the petitioner.

Issue No. 2.

17. Since I have held under issue No. 1 above, the services of petitioner has not been terminated illegally by the respondent under the provisions of Industrial Disputes Act, 1947, hence the peittioner is not entitled to any claim of service benefits, hence issue No-2 is decided accordingly.

Issue No. 3

18. In support of this issue, no evidence was led by the respondents nor it was pressed during the course of argument. However, I find nothing wrong with this petition which is perfectly maintainable, hence issue No.3 is decided in favour of the petitioner and against the respondent.

Issue No. 4

19. In support of this issue, no evidence was led by the respondents. However I have scrutinized the record of the case and observed that there is no limitation under the Industrial Disputes Act, 1947 as it was held by their lordship of Hon'ble Supreme Court reported in (1999) 6 SC 82 case titled as Ajayab singh Vs. Sirhind Co-operative Marketing –cum- processing Service Society Limited and Another. In which it was held that:—

“the provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”

Accordingly, on the strength of this ruling, it can safely be concluded that there is no limitation under the Industrial Disputes Act, 1947, and as such issue is decided in negative.

RELIEF

As a sequel to my above discussion and findings on Issue No-1 to 4, the claim fails and is hereby dismissed and the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 5th day of August, 2008 in the presence of parties.

JAGMOHAN SINGH MAHANTAN,
*Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.*

**In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-
Labour Court Shimla**

Ref No. 85 of 2005
Instituted On 27.9.05
Decided On. 5.8.2008.

Ajay Kumar, S/o Shri Roshan Lal, R/o Village Manjholi, P.O Katcha Tank, Nahan District Sirmaur, HP
...*Petitioner*

VERSUS

3. Executive Engineer, I&PH Division Nahan, District Sirmaur, HP. ...*Respondent*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner:- Shri R.D Kondal, Ld. Csl.

For respondent:- Shri T.C Kainthla, Ld. DDA.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:—

“Whether the termination of services of shri Ajay Kumar S/o Shri Roshan Lal workman by the Executive Engineer, I&PH Division Nahan, District Sirmaur, HP. W.e.f. 5.3.1997 without complying the provisions of Industrial Disputes Act, 1947 is proper and justified? If not, what relief of service benefits and amount of compensation the above aggrieved workman is entitled to?”

2. The petitioner has filed a separate claim pleading therein that the petitioner was engaged as daily wages beldar after passing out his matriculation in Irrigation-cum-Public Health Sub Division No.2, Nahan on 26.4.1995 under the control of Executive Engineer I&PH Division Nahan District Sirmaur who worked continuously till 5.3.1997 and the respondent applied frictional breaks in the services of the petitioner only with deliberate intention to prevent him from completing 240 days in a calendar year, which amounts to unfair labour practice and that the respondent orally terminated the services of the petitioner which is illegal and arbitrary and even retained junior persons namely Shri Yogesh S/o Shri Kharag Singh, Shri Rakehs Dutta S/shri B.R Dutta and Shri Ram Kumar S/o Shri Bhagwan Singh in service and that the respondent did not issue muster roll to the petitioner regularly which prevented him from completing 240 days in each calendar year and that the petitioner made several oral requests and submitted written representation since 1997 to the respondent for his reengagement but in vain and then the petitioner filed a case before Hon’ble High Court of HP which was disallowed on the grounds of delay in filing it and that the respondent is expected to act as a modal employer of the State of HP and to act fairly, justly, strictly in pursuance of provisions laid down in section 25-G & 25-H of the Industrial Disputes Act, 1947 read with Article 14,16,21,39 and 311 (2) of the Constitution of India but the respondent failed to comply with the mandate of law, hence this claim duly supported by an affidavit.

3. The Respondent resisted and contested the claim of the petitioner, which filed reply inter alia raising preliminary objections of maintainability and barred by limitation. On merits, it is contended that the petitioner was initially engaged as daily wages beldar in the month of April, 1995 who worked only for 199 days in 1995, 118 days in 1996 and 62 days in 1997 and then he left the job of his own and as such the petitioner never completed 240 days in any calendar year and as such the petitioner had not worked continuously from 26.4.1995 to 5.3.1997 who was attending to his duties intermittently at his own sweet will as and when circumstances convenient to him and had left the job of his own and that Shri Ram Kumar has been working continuously with the respondent w.e.f. 1.5.1995 till date without any break and Shri Rakesh Dutta S/o Shri B.R Dutta is not working with the respondent and Yogesh Kumar was engaged in the department in 11/97 when the services of daily wages beldar were required for running of water supply scheme to Nahan Town and that the petitioner has left the job at his own sweet will, who was not terminated by the respondent.

4. In the rejoinder, the petitioner controverted the assertions made in the reply and reaffirmed and reiterated the averments made in the claim.

5. The following issues were framed by this Court on 19.5.2006 on the pleadings of the parties.

1. Whether the services of the petitioner has been illegally terminated by the respondent w.e.f. 5.3.1997 without complying the provisions of I.D Act, 1947? If so its effect?OPP.
2. If issue No.1 is proved in affirmative to what relief of service benefits the petitioner is entitled to? ...OPP.
3. Whether the petition is barred by limitation?OPR.
4. Whether the petition in the present form is not maintainable? ...OPR.
5. Relief.

6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings on the aforesaid issues are as under:—

Issue No.	Yes.
Issue No.2	Entitled to reengagement with seniority and continuity in service along-with back wages @ 50%.
Issue No.3	No.
Issue No.4	No.
Relief.	Reference allowed per operative part of award.

REASONS FOR FINDINGS

Issue No.1

8. Coming to issue No.1, the petitioner has examined himself as PW-1 who has stated that he was engaged on 26.4.1994 as beldar at Nahan Subdivision No.2 who was removed from service from 5.3.1997 by SDO orally. SDO told him that he should come on the next month and he would issue new muster roll. He visited the office of SDO 3-4 times but all the time, the SDO delayed his reengagement. He had sent the letter to the XEN for his reengagement which was marked to the SDO but he was not reengaged. He received no reply of his letters. His junior S/Shri Ramesh Kumar and Ram Kumar are still working in the department. No notice or compensation was paid to him at the time of his removal, who worked for 200 days in 1995, 119 days in 1996 and he worked only for 2 months in 1997 and then he was removed from service and as such he prays for his reengagement in service with all benefits. 9. On the contrary, the respondent has examined Shri Ram Krishan, Assistant Engineer, I&PH Sub-Division Nahan who has stated that the petitioner was engaged on 26.4.1995 as beldar against the temporary work of the department who served till March, 1997 as per mandays chart Ex. RA. The petitioner has not worked for 240 days in any year who was not regular in his duties as is evident from mandays chart. They were issuing the muster roll according to the availability of the work and in March, 1997 single muster roll was issued to the petitioner where he worked only for 5 days. The petitioner never approached the department after 1997 for his reengagement. They were having the vacancies in muster roll for the month of April to June, 1997 as per copy of muster roll Ex. R-1 109 to Ex. R-3 and then the petitioner approached the Administrative Tribunal for his reengagement who lost his case as per Ex. R-4. The department has engaged Ram Kumar on 1.5.1995, Yogesh was employed on 8.11.1997 but all these people attending their duties regularly. The petitioner was not regular and if the petitioner was attending his duties, then the question of his removal does not arise as the work was available at that time. They have not given any notice to the petitioner as he himself left the job. They have not engaged new persons by retrenching the petitioner and as such he is not entitled to any relief.

10. The case of the petitioner is that he was engaged by the respondent department in the year 1994 who had not completed 240 working days due to frictional breaks in his service as given by the respondent and the work is still available with the respondent department. It is also the case of the petitioner that his junior S/Shri Yogesh Kumar and Ram kumar are still working with the department and as such he is entitled for his reengagement in service with all service benefits.

11. On the other hand, the respondent contends that the petitioner has not completed 240 working days in a calendar year preceding his termination vide his mandays chart Ex. RA. However, Shri Yogesh Kumar was engaged on 8.11.1997 and working continuously on duty and as such the petitioner is not entitled to any relief as prayed by him.

12. I have considered the respective contentions of both the parties and have scrutinized the record of the case.

13. After the close scrutiny of the record of the case, it is clear that the petitioner has not completed 240 working days in a calendar year preceding his termination as is evident from his mandays chart Ex RA placed on record. However, it stands proved on record that the junior to the petitioner Shri Yogesh Kumar is still working with the respondent as RW-1 Ram Krishan Assistant Engineer, IPH Sub Division Nahan has admitted in his cross examination that Shri Yogesh Kumar was engaged on 8.11.1997 and is continuously coming on duties. It is also proved on record that the petitioner was engaged on 26.4.1995 as admitted by RW-1 and obviously therefore it is clear admission on the part of RW-1 that Yogesh Kumar beldar, junior to the petitioner is still working with the respondent. It is well settled in 2007 LLR 72 SC incase titled as State of Haryana Vs. Dilbagh Singh. In which it was held that:—

“Respondent was serving as beldar in PWD (B&R) and his services were terminated on 25.12.1999-Labour Court found that person junior to respondent was still working and thus there was breach of section 25-G and 25-H of the Act. Court directed reinstatement with 50% back wages.”

In the instant case, it stands proved on record that Shri Yogesh Kumar beldar is the junior to the petitioner and is still continuing with the respondent department and as such there is clear breach of section 25-G and 25-H of the Industrial Disputes Act, 1947. Accordingly, I have no hesitation in coming to the conclusion that the services of the petitioner has been illegally terminated by the respondent w.e.f. 5.3.1997 without complying with the provisions of Industrial Disputes Act, 1947 and as such this issue is decided in favour of petitioner and against the respondent.

Issue No.2

14. Since I have held under issue No.1 above that the service of the petitioner has been terminated illegally w.e.f. 5.3.1997 by the respondent, hence the petitioner is entitled to be reinstated with seniority and continuity in service with 50% back wages. Accordingly this issue is decided in favour of petitioner and against the respondent.

Issue No.3

15. In support of this issue, no evidence was led by the respondents. However I have scrutinized the record of the case and observed that there is no limitation under the Industrial Disputes Act, 1947 as it was held by their lordship of Hon'ble Supreme Court reported in (1999) 6 SC 82 case titled as Ajayab singh Vs. Sirhind Co-operative Marketing –cum- processing Service Society Limited and Another. In which it was held that:—

“the provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”

Accordingly, on the strength of this ruling, it can safely be concluded that there is no limitation under the Industrial Disputes Act, 1947 and as such issue is decided in negative.

Issue No. 4

16. In support of this issue, no evidence was led by the respondents nor it was pressed during the course of argument. However, I find nothing wrong with this petition which is perfectly maintainable, hence issue No.4 is decided in favour of the petitioner and against the respondent.

RELIEF

As a sequel to my above discussion and findings on Issue No-1 to 4, the claim succeeds and is hereby allowed and as such the petitioner is ordered to be reengaged forthwith with seniority and continuity in service along-with back wages @ 50% and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 5th day of August, 2008 in the presence of parties.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla

Ref.116/2007

29.8.2008

Sh Salim Ahmed V/s Supdt Engg HPPWD/IPH State workshop Nahan

29.8.2008:

Present : None for the petitioner.

Shri Sanjay Pandit, Ld ADA for respondent. The case is called out several times but no appearance but in by the petitioner. It is 2.05 PM the petition is dismissed in default . A copy of this order is sent to the appropriate Govt. for publication in H.P. Rajpatra. File, after completion be consigned to records.

Announced

29.8.2008

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla

132/2007

29.8.2008

Sh.Bhagat Ram V/s D.F.O.Nahan Distt Sirmour

29.8.2008:

Present : Sh. A.K.Gupta ,Ld.csl for the petitioner.
Shri Sanjay Pandit. Ld. ADA for respondent.

Heard. At this stage ,Ld,Csl. for petitioner has made the statement that the petitioner does not want to pressed this petition.

In view of the statement of Ld, Csl. for petitioner on record, the claim of the petitioner is dismissed as having not pressed . A copy of this order is ordered to be sent to the appropriate Govt. for publication in H.P. Rajpatra . File , after completion be consigned to records.

Announced

29.8.2008

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industiral Tribunal-cum-Labour Court Shimla.

Ref. 69/2003

Sh. D. K. Sharma

V/s

M/s Pamwi Tissue Ltd. Barotiwala, Solan.

08.09.2008

Present.— Sh. J.C. Bhardwaj, Ld. AR for petitioner.
Sh. Rahul MAhajan, Ld. Csl. for respondent.

At this stage both the parties have indicated their intention to compromise this case. Heard. Let the statement of petitioner be recorded on oath. Statement recoded separately and placed on record.

In view of the statement of petitioner, I am satisfied that this case has been compromised voluntarily by both the parties without any extraneous influence on them. The petitioner has received a sum of Rs.45,000/- (Forty Five thousand Only) being full & Final settlement today in the court and as such he does not want to press this case. Accordingly, the claim of the petitioner is dismissed as having been satisfied and as such the reference is ordered to be answered accordingly. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion be consigned to records.

Announced.
8.9.2008

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla.

Ref. 130/2003

Sh. Rakesh Chauhan Purohit

V/s

M/s Pamwi Tissue Ltd. Barotiwala, Solan.

08.09.2008

Present.— Sh. J.C. Bhardwaj, Ld. AR for petitioner.
Sh. Rahul MAhajan, Ld. Csl. for respondent.

At this stage both the parties have indicated their intention to compromise this case. Heard. Let the statement of petitioner be recorded on oath. Statement recorded separately and placed on record.

In view of the statement of petitioner, I am satisfied that this case has been compromised voluntarily by both the parties without any extraneous influence on them. The petitioner has received a sum of Rs.45,000/- (Forty Five thousand Only) being full & Final settlement today in the court and as such he does not want to press this case. Accordingly, the claim of the petitioner is dismissed as having been satisfied and as such the reference is ordered to be answered accordingly. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion be consigned to records.

Announced.
8.9.2008

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla.

Ref. 280/2001

Sh. Yash Pal

V/s

M/s Pamwi Tissue Ltd. Barotiwala, Solan.

08.09.2008

Present.— Sh. J.C. Bhardwaj, Ld. AR for petitioner.
Sh. Rahul MAhajan, Ld. Csl. for respondent.

At this stage both the parties have indicated their intention to compromise this case. Heard. Let the statement of petitioner be recorded on oath. Statement recorded separately and placed on record.

In view of the statement of petitioner, I am satisfied that this case has been compromised voluntarily by both the parties without any extraneous influence on them. The petitioner has received a sum of Rs.45,000/- (Forty Five thousand Only) being full & Final settlement today in the court and as such he does not want to press this case. Accordingly, the claim of the petitioner is dismissed as having been satisfied and as such the reference is ordered to be answered accordingly. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion be consigned to records.

Announced.
8.9.2008

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla.

Ref. 156/2001

Sh. R. K. Saini

V/s

M/s Pamwi Tissue Ltd. Barotiwala, Solan.

08.09.2008

Present.— Sh. J.C. Bhardwaj, Ld. AR for petitioner.
Sh. Rahul Mahajan, Ld. Csl. for respondent.

At this stage both the parties have indicated their intention to compromise this case. Heard. Let the statement of petitioner be recorded on oath. Statement recorded separately and placed on record.

In view of the statement of petitioner, I am satisfied that this case has been compromised voluntarily by both the parties without any extraneous influence on them. The petitioner has received a sum of Rs.45,000/- (Forty Five thousand Only) being full & Final settlement today in the court and as such he does not want to press this case. Accordingly, the claim of the petitioner is dismissed as having been satisfied and as such the reference is ordered to be answered accordingly. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File, after completion be consigned to records.

Announced.
8.9.2008

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla.

Ref. 70/2007

Kamghar Sangh

V/s

Director M/s Tigaksha Metallics (p) Ltd, Distt Shimla.

8.9.2008:-

Present.— Sh. Virender Singh, Ld, Csl for petitioner .
Sh. Rahul Mahajan, Ld, Csl, for respondent.

This case is taken up today on the application for preponment moved by both the parties. At this stage both the parties have indicated their intention to compromise this case. Heards. Let the statement of Shri Virender Singh, Ld. Csl for petitioner be recorded. Statement recorded separately and placed on record.

In view of the statement of Ld. Csl for petitioner, I am satisfied that this case has been compromised between the parties, accordingly the claim of the petitioners is dismissed as compromised and as such the reference is ordered to be answered accordingly . Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion, be consigned to records.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industiral Tribunal-cum-Labour Court Shimla.

Ref. 71/2007

Kamghar Sangh

V/s

Director M/s Tigaksha Metallics (p) Ltd, Distt Shimla.

8.9.2008:-

Present—Sh.Virender Singh,Ld,Csl for petitioner .
Sh.Rahul Mahajan, Ld,Csl, for respondent.

This case is taken up today on the application for preponment moved by both the parties. At this stage both the parties have indicated their intention to compromise this case. Heards. Let the statement of Shri Virender Singh, Ld. Csl for petitioner be recorded. Statement recorded separately and placed on record.

In view of the statement of Ld. Csl for petitioner, I am satisfied that this case has been compromised between the parties, accordingly the claim of the petitioners is dismissed as compromised and as such the reference is ordered to be answered accordingly . Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion, be consigned to records.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industiral Tribunal-cum-Labour Court Shimla.

Ref. 44/2006

Smt. Hasina Begum

V/s

M/s K.K. Appearls Ltd. Chowkiwala, Solan.

9.9.2008

Present.—None for petitioner.
Sh. Sawran Sharma, Advocate for respondent.

Case called several time but no appearance put in by the petitioner. It is already 4.00 pm, hence the reference is dismissed in default. Let a copy of this order be sent to apperatore government for publication in official gazttee. File, after completion be consigned to records.

Announced.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industiral Tribunal-cum-Labour Court Shimla.

Ref. 45/2006

Jasvinder Singh

V/s

M/s K.K. Appearl's Ltd. Chowkiwala, Solan.

9.9.2008

Present.—None for petitioner.

Sh. Sawran Sharma, Advocate for respondent.

Case called several time but no appearance put in by the petitioner. It is already 4.00 pm, hence the reference is dismissed in default. Let a copy of this order be sent to apperatore government for publication in official gazttee. File, after completion be consigned to records.

Announced.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industiral Tribunal-cum-Labour Court Shimla.

Ref. 46/2006

Smt. Neelam

V/s

M/s K.K. Appearl's Ltd. Chowkiwala, Solan.

9.9.2008

Present.—None for petitioner.

Sh. Sawran Sharma, Advocate for respondent.

Case called several time but no appearance put in by the petitioner. It is already 4.00 pm, hence the reference is dismissed in default. Let a copy of this order be sent to apperatore government for publication in official gazttee. File, after completion be consigned to records.

Announced.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industiral Tribunal-cum-Labour Court Shimla.

Ref. 55/2006

Smt. Jyoti devi

V/s

M/s K.K. Appearls Ltd. Chowkiwala, Solan.

9.9.2008

Present.—None for petitioner.

Sh. Sawran Sharma, Advocate for respondent.

Case called several time but no appearance put in by the petitioner. It is already 4.00 pm, hence the reference is dismissed in default. Let a copy of this order be sent to apperatore government for publication in official gazttee. File, after completion be consigned to records.

Announced.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industiral Tribunal-cum-Labour Court Shimla.

Ref. 60/2006

Sh. Makhan Lal

V/s

M/s K.K. Appearls Ltd. Chowkiwala, Solan.

9.9.2008

Present.—None for petitioner.

Sh. Sawran Sharma, Advocate for respondent.

Case called several time but no appearance put in by the petitioner. It is already 4.00 pm, hence the reference is dismissed in default. Let a copy of this order be sent to apperatore government for publication in official gazttee. File, after completion be consigned to records.

Announced.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industiral Tribunal-cum-Labour Court Shimla.

Ref. 51/2003

Sh. Om Parkash

V/s

Ex.Engg.HPPWD Division ,Parwanoo, Distt Solan.

16.9.2008:-

Present.—Sh. Virender Singh, Ld, Csl for petitioner.

Sh.Atul Jhingan, Ld. Csl for respondent.

Heard. At this stage Shri Virender Singh Ld. Csl for petitioner submits at the bar that the petitioner is no more who died in the year 2007.

In view of his statement at the bar an having regard to the fact that no application for bringing LR's of the deceased petitioner on record till to date, hence the claim of the petitioner is dismissed as abated and as such the reference is ordered to be answered accordingly. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File , after completion, be consigned to records.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla.

Ref. No. 150 of 2001.

Instituted On. 9.8.2001.

Decided On. 9.9.2008.

1. Harbans Singh S/o Shri Sarwan Singh, R/o Dhundli, P.O Bhatia, Tehsil Nalagarh, District Solan, HP.
2. Dev Raj Verma S/o Shri Magi Ram R/o Village Salwal, P.O. Rajpura, Tehsil Nalagarh, District Solan, HP.
3. Ramesh Kumar. S/o Shri Daulat Ram, R/o Village Salwal, P.O Rajpura, Tehsil Nalagarh, District Solan, H.P.

..Petitioners.

Versus

Drish shoes Ltd. Registered Office Factory Village Rajpura Bharatgrah Road, Nalagarh Tehsil Nalagarh, District Solan, HP. through its Managing Director

..Respondents.

Reference under section 10 of the Industrial disputes Act, 1947.

For petitioners : Shri Lalit Kumar Sharma, Ld. Csl.

For respondent : Shri Rajeev Sharma, Ld. Csl.

AWARD

1. The following reference has been received from appropriate government by this Court for adjudication:-

“Whether the termination of services of S/Shri Dev Raj S/o Shri Maghi Ram, Harbans Singh S/o Shri Sarwan Singh and Ramesh Kumar S/o Shri Daulat Ram w.e.f. 01.03.2001 as alleged by the workmen when they were under transfer orders by the management of M/s Drish Shoes Village Rajpura Tehsil Nalagarh, District Solan, is legal and justified. If not, what relief of service benefits the above three workmen are entitled to?”

2. The petitioner have filed a separate claim asserting therein that the respondent company established its factory in the month of December, 1987 and the petitioners were appointed as Security Guard bearing code numbers 13 dated 11.12.1988, 20010 dated 24.11.1990 and 10006 dated 17.11.1990 respectively as is evident from their salary slips as annexure P-1 to P-3 and that all the petitioners worked and having discharged their duties to the satisfaction of their superiors and nothing wrong was heard from any about their work and conduct and the petitioners got mentally perturbed when impugned order dated 19.2.2001 was conveyed to them by the respondent whereby they have been ordered to be transferred to other department i.e. setting and ETP to the utter violation of section 9-A of the Industrial disputes Act, 1949 although the junior persons have been retained in the security guard department and the copies of impugned order dated 19.9.2001 are annexure P-4 to P-6 respectively and that being aggrieved from impugned order,

they raised Industrial Dispute before the respondent and specially requested to intervene in the matter and protect their service and the transfer has been made in order to compel the petitioners to leave the job but the respondent No.4 rejected the demand of the petitioners and apprised them that the representation could not be accepted in as much as the order of transfer was passed on account of organizational restructuring for better utilization of human resource for the recession in the better industry as well as on account of lower turnover of the company vide annexure P-10 to P-12 respectively and that in response thereto the petitioners vide letter dated 1.3.2001, submitted to the respondent that stand taken by it is totally false as neither the company running in losses nor the department of security have been closed and rather the security work has been allotted to some private contractor to some private party on contract basis and the copy of such representation was also delivered to the respondent, however more than two months have been elapsed but no action have been taken by the respondent and the services of the petitioners are at stake and are carving the indulgence of Hon'ble High Court of HP and preferred writ petition No. 308/2001 which stood allowed on 22.8.2001 and as per the stand taken by the Government the reference has already been referred to this Court as all the petitioners are curve the indulgence to this Court to provide justice on the following grounds :-

- (a) That the impugned action of the respondent under the grab of transfer to other department is not tenable in the eyes of law in so much as the service condition of the petitioners interms of pecuniary benefits nature of duties and the retire benefits have been greatly affected and the respondent has acted illegally and arbitrarily and he resultant action deserves to be set aside.
- (b) That the respondent has committed illegality by sending the senior most security guard to other department although the junior persos namely Jeet Ram, Sri Ram, krishan, Ranjeet Singh, Lacchi Ram and Balram have been retained and apart from them fifteen other security guard (fresh hands) have been engaged by the security concerned who was allotted the security work on contract basis by the respondent and the respondent company has increased its its production/annual profit which has set its new unit at Nalagarh and Panchkula and as uch there cannot be any recession on as well as respondent company and as a matter of fact the respondent company had knowledge that the petitioner will not work in the new department on account of their religious sentiments and they will left their job of their own, hence the impugned order was served to the utter violation of Industrial Disputes Act, 1947.
- © That the right of livelihood its continuity, better and healthy working conditions are now recognized rights as per precedent set by the Hon'ble Supreme Court while interpreting the scope of Articles 21 and 41 of the Constitution of India and no employer could terminate the services in throw away manner and that too in arbitrary manner as done by the respondent company especially when there is sufficient work of security guard and the petitioners are the senior most persons and have been terminated in the shape of termination from the post of security guard while junior persons have been retained.

And as such prayed for their reinstatement against the post of security guard w.e.f. 1.3.2001 with full back wages, seniority and other consequential benefits, hence this claim.

2. The respondent resisted and contested the claim of the petitioners which filed reply inter-alia raising preliminary objection of maintainability and the reference being bad in law as the reference is not made by the appropriate government after complying its judicial mind and the reference is bad in law that the Labour Commissioner of Himachal Pradesh is the Chief conciliation officer for the State of Himachal Pradesh and that the petitioners are gainfully employed during this period for which they are not entitled for any kind of benefits from the respondent. On merits, it is contended that though the petitioners were appointed as security guard but during the course of employment they did wrong i.e minor misconduct and they were given warnings by the respondent management and some time they filed written apology for the same and the warning letters and the letters of apology filed by the petitioners are attached with the reply and it is further contended that the petitioners have not come to the Court with clean hands at the time of filing the claim petition who have concealed the material facts from the Court and have concocted a cock and bull story and in fact the respondent management entered into an understanding between the union of workers on 17.6.1999 and the said settlement arrived at between the management and the workers union was duly registered under section 12 (3) of the Industrial Disputes Act, 1947 photocopy of the settlement is attached with the reply and the petitioners being the workers of the respondent company and being the members of the union, are bound by the terms and conditions of the settlement dated 17.6.1999. As per the settlement for profitability and for organizational restructuring for better utilization of the human resources, the company decided to abolish the security department and to give the security of the company on contract basis to M/s SDB CISCO Ltd w.e.f. 1.3.2001 and the respondent management in compliance of section 9-A of the Industrial Disputes Act, served the notice dated 19.1.2001 upon the workers of the security department and the petitioners and other security guards were conversant with the notice dated 19.1.2001 but they refused to take the notice when the same was given to them, hence the said notice was pasted on the notice board of the company. As per the terms of the notice dated 19.1.2001, the respondent passed the orders of transfer on the petitioners on 9.2.2001 and all the petitioner received the transfer order dated 19.2.2001 and out of nine workers who were working in the security department, five workers namely S/Shri Krishan Singh S/o Ram

Singh, Jeet Ram S/o Matu Ram, Shree Ram S/o Nanak Chand, Ranjeet Singh S/o Rachan Singh and Lachhi Ram S/o Tulsi Ram have joined their respective departments after giving their consent for the same while one worker Shri D.V Rana opted for resignation and received his full & final from the respondent and left the job but the petitioners did not join their respective posts at the transferred place of working w.e.f. 1.3.2001 and leveled wrong allegations against the respondent but the respondent replied the same vide letter dated 28.2.2001 and the petitioners remained absent without any sanction leave w.e.f. 1.3.2001 and then the respondent issued letter dated 1.3.2001 to the petitioners regarding their unauthorized absence which was sent through RAD and the same was received by the petitioners as per acknowledgement but the petitioners failed to join their duties hence the company again issued a letter dated 7.1.2001 through RAD to the petitioner and ordered them to report for duties but without effect and then the respondent company issued another letter dated 17.3.2001 to the petitioners asking them to report for duties and the petitioners turned before the personnel manager of the company on 20.3.2001 at about 11.00 AM and pressed on the point that they will work as only security guards and they could not join the duty at the transferred place of work. The respondent company tried to prevail upon the minds of the petitioners but of no use and then the respondent company again issued a letter dated 23.4.2001 to the petitioners to join their duties immediately but of no use. On each and every letter the petitioners sent to the respondent with one adamant view that they will not work except as security guard and the language used by the petitioners in these letters is defamatory and harsh one which clearly shows the adamant, irate, irresponsible behaviors of the petitioners which clearly show that the respondent management has not terminated the services of the petitioners w.e.f. 2.3.2001. It is also contended that petitioners filed a writ petition No. 308/01 before the Hon'ble High Court which was disposed of by the Hon'ble High Court on the statement of Mr. Sanjay Karol, Advocate General with Mr. R.M Bisht, Assistant Advocate General for respondent No. 1 to 3 that a reference has been made by the government to Industrial Tribunal. However, it is denied that Labour Commissioner made a wrong reference. It is also wrong that the respondent management passed the order of transfer in a utter disregard of the provisions of Industrial disputes Act, 1947 and the allegations of religious sentiments are absolutely wrong and the respondent management is not indulging in such type of alleged activities and even the respondent company also asked the petitioners to join at their place of working i.e transfer place of work but the petitioners failed to comply with the orders of good gestures of the respondent company and as such prayed for dismissal of the claim petition.

4. In the rejoinder, the petitioners have controverted the assertions made in the reply and reaffirmed and reiterated the averments of the claim petition.

5. The following issues were framed by this Court on 16.7.2004 on the pleadings of the parties.

1. Whether the termination of services of s/Shri Dev Raj, Harbans Singh and Ramesh Kumar w.e.f. 1.3.2001 when they were under transfer by the management is legal and justified? ..OPR.
2. If issue No-1 is not proved, to what relief of service benefits the petitioners are entitled to? ..OPP.
3. Whether the claim petition is not maintainable in the present form as alleged in preliminary objection No.1 to 3? ..OPR.
4. Whether the petitioners were/are gainfully employed as alleged? ..OPR.
5. Relief.

6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case. 7. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under:-

Issue No. 1 : Yes.

Issue No. 2 : Not entitled to any relief.

Issue No. 3 : No.

Issue No. 4 : Yes.

Relief : Reference answered in negative per operative part of award.

REASONS FOR FINDINGS

Issue No.1:

8. Coming to issue No.1, the petitioners have examined four PWs in all. PW-1 Shri Dev Raj has stated that he was recruited as security guard with the respondent company on 24.11.1990 he performed the duties of security guard till 2001 having security code number HL-106 and the company paying him regular salary as per salary slip Ex.

PW-1/A. In Feb. 2001 the company had passed the transfer order to ETP department as per Ex. PW-1/B and since the respondent company had changed his department he refused to join at the new place of posting and he raised the Industrial Dispute as per Ex. PW-1/C. On 1st March, 2001 when he reported on duty as security guard, the then Personnel Manager Shri Gurdeep Singh did not allow him to perform the duties of security guard and further directed to join at transferred place and when he refused to do so he pressed for his resignation. He refused to resign and intended to perform the previous duties and written complaint against his transfer order has conveyed to G.M/M.D of the respondent company and the copies also sent to the O/o Labour Commissioner Shimla, Labour Officer Solan and Labour Inspector Nalagarh vide Ex. PW1/D. Labour Inspector tried to reconcile the matter and also directed the respondent company to allow him to perform the previous duties as the respondent themselves retained other security guards namely Jeet Ram, Ranjeet Singh, Lachhi Ram, Krishan Kumar etc and they are still working with the respondent and then they filed a writ petition before the Hon'ble High Court of HP. the respondent did not give any reason in the order of his transfer nor any notice was ever served upon him. Since he is Swarn by cast and ETP Plant is being run by the person other than by the security guard and there is bad odium on account of raw material of dead animals skin, so he cannot perform duties of that place. He is unemployed since then and prayed for reinstatement in service along-with all consequential benefits.

9. PW-2 Shri Siri Ram has stated that he know Hanbans Singh, Dev Raj and Ramesh Kumar who had worked with him as security guard. He joined with the respondent on 25.8.1992 and his services were regularized in April, 1993. The petitioners are senior to him. He left the service of the respondent on 17.3.2003. From the date of his joining till the date of leaving the job he performed the duties of security guard and the company like the petitioners had passed the orders of his transfer from security to other department. The other persons who were working as security guard with him and who were transferred to other departments are working at the transfer place. No security guard who were transferred to setting and ETP department never joined the duties in the said section. Jeet Ram

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

**In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla
Camp at Nahan H. P.**

Ref. No. 33 of 2006.

Instituted on. 18.3.2001.

Decided on. 25.9.2008.

Prithvi Singh S/o Shri Kesar Singh R/o Village Bodiwala, P.O Kolar, Tehsil Paonta Sahib, District Sirmaur,
H. P. ..Petitioner.

Versus

1. The State of Himachal Pradesh through Principal Secretary (Agriculture) to the government of Himachal Pradesh.
2. Shri J.S Rana, Director of Agriculture Himachal Pradesh Shimla.
3. The Deputy Director of Agriculture Nahan, District Sirmaur H.P. ..Respondents.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri A.K Gupta, Ld. Csl.

For respondent : Shri Prakash Thakur, Ld. ADA.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:-

“Whether the retrenchment of Shri Prithvi Singh S/o Shri Kesar Singh workman by the Deputy Director of Agriculture, Nahan District Sirmaur HP w.e.f. 31.7.2003 vide notice dated 31.7.2003 (copy enclosed) is proper and justified? If not, what relief of service benefits and amount of compensation the above aggrieved workman is entitled to?”

2. The petitioner has filed a claim asserting therein that he was engaged on daily wages class III employee in the year 1984 who worked as such upto 7th September, 1987 when his services were illegally and unjustifiably disengaged against which the petitioner approached the Hon'ble High Court of Himachal Pradesh and then the petitioner was reengaged on the direction of Director of Agriculture and again the services of the petitioner disengaged without following any procedure after four days and then the petitioner against this illegal action raised the Industrial Dispute which was allowed without back wages in the year 2003 and then the petitioner resumed his duties on 14th July, 2003 and after 1½ months, the petitioner was again terminated by respondent No-3 on the directions of respondent No.2 w.e.f. 31.8.2003 having completed the formalities of serving one month notice on the petitioner in which it was mentioned that no work is available, while the other persons who are serving in the department were allowed to work but only the petitioner was terminated in the name of non availability of work and that against this action of respondent, the petitioner approached the Administrative Tribunal and the respondents misled the petitioner by saying that if the petitioner preferred the representation to the Secretary, then his representation would be considered sympathetically and on this assurance the Original Application (OA) of the petitioner was treated as representation to the respondent No.1 which was rejected without passing any speaking order and that again the petitioner had to raise an Industrial Dispute and that the action of the respondent No. 2 & 3 in disengaging the services of the petitioner time and again amounts to illegal exercise of the powers and also tainted with malafide as the petitioner approached the Administrative Tribunal and the respondents were offended with the petitioner and that was why the services of the petitioner was terminated and that the services of the petitioner have been terminated only to harass him with malafide intention otherwise there is no dearth of work in the department and the persons who were working along-with the petitioner are still working and even many new recruitments were made after the disengagement of the services of the petitioner which can be verified from the record. The seniority list of the daily waged is prepared at district level and the respondent No.2 issued the directions to respondent No.3 to disengage the services of the petitioner and that was why the respondent No.3 disengaged the services of the petitioner merely saying that the work has come to an end moreover, the other persons are working in the same empire and at the same place and as such the plea of the respondent is not sustainable in the eyes of law which amounts to gross unfair labour practice for which the respondents are also liable to be prosecuted and that the action of respondents in disengaging the services of the petitioner at the instance of the respondent No.2 Shri J.S Rana is highly arbitrary, unjustified and also in violation of the principle of last come first go and as such prayed for reinstatement in service with all benefits including full back wages with interest @ 12 % thereon from the date of retrenchment till the date of award and also prays for the recovery of the amount from the pocket of the respondent No.2 Shri J.S Rana, who ordered the respondent No.3 to disengage the services of the petitioner, hence this claim.

3. The respondents resisted and contested the claim of the petitioner which filed reply inter alia raising preliminary objections for non joinder and mis-joinder of necessary parties as the government has not been properly sued and that the petitioner has been disengaged /retrenched in accordance with Industrial Disputes Act, 1947. The petitioner is habitual to misrepresent the facts even he does not bother to tamper with his explanations letter as is evident from letter No. 87-88-313 dated 2.8.1988 which was issued by the Incharge Seed Multiplication Far Saduwalla (Dhaulakaun) as he refused to work at the farm which was tampered by the petitioner and even no junior to the petitioner was retained by the respondent No.3 after 24.8.1998 and that respondent No.3 engaged Smt. Meena Devi and Smt. Bimla Devi on compassionate grounds as per the policy of the government, the copy of which is annexure R/1 and as such the application is not maintainable and the petitioner was disengaged/retrenched in accordance with law and the admissible compensation as well as wages in lieu of notice period paid in consistent to the provision of section 25-F of the Industrial Disputes Act, 1947 who has no right to maintain this application and that the petitioner worked under the control of the Assistant Soil Conservation, Paonta as casual labourer on muster roll basis w.e.f. 1.5.1984 to 31.8.1987 to discharge the duties of class IV and assisting the official in issuing and serving the notice to loanees who have taken Soil Conservation Loan for the development of their agricultural land due to shortage of regular class IV staff in the office of Sub divisional Soil Conservation Officer, Paonta Sahib. Consequently upon the posting of regular class III employees (Clerk & Accountant) there remained no justification to continue the services of the petitioner and as such the services of the petitioner were laid off w.e.f. 1.9.1987 and then the petitioner filed CWP No. 151/1988 before the Hon'ble High Court during 1988 and thereafter the petitioner was offered the employment on muster roll on the said farm where the petitioner attended the work only for four days i.e from 30.7.1988 to 2.8.1988 and then he left the work at his own who never turned up till to date and that the agriculture department deals with government activities and does not fall in the ambit of Industry as defined under section 2(J) of the Industrial Disputes Act and that the petitioner was engaged as seasonal worker for carrying out 100% subsidizing works i.e water storage tanks, farm, ponds, crates wall, Kuhl etc. in accordance with the programme approved and promulgated by the state government under specified budget provisions to provide massive assistance to the small and marginal farmers, scheduled caste families for increasing agriculture production by providing irrigation facilities etc. and the services of the labourer are co-terminus with the completion of the scheme/work. On merits, it is contended that the petitioner was engaged as casual labourer on muster roll w.e.f. 1.5.1984 by the Sub Divisional Soil Conservator Officer Paonta Sahib and the petitioner discharged his duties as class IV as casual labourer and the work under the respondent department are of seasonal character, temporary and short duration and the services of the labourers for carrying on such work depends on the completion of work. The petitioner was allowed to work intermittently upto 31.8.1987 and due to non-availability of

work, the services of the petitioner were terminated on 1.9.1987 and then on the availability of the work, the petitioner was again reengaged w.e.f. 30.7.1988 who worked till 2.8.1988 and then he left the work at his own and did not turn up till to date and a reference has been made with him to do the work vide letter dated 2.8.1988 but instead of coming for work, the petitioner filed a complaint for reengagement before the Labour Court after a span of ten years in September, 1998 where the petitioner produced false and tampered letter issued to him by the Incharge Seed Multiplication Farm Sudanwala District Sirmaur vide letter dated 2.8.1988, the petitioner is habitual to misrepresent the facts even he does not fear to tamper with explanation letters as is evident from annexure R/II and R /III who refused to work at the farm and after the award of this Court, the petitioner was reengaged in service w.e.f. 14.7.2003 but later on the petitioner was disengaged w.e.f. 14.7.2003 due to non-availability of work and not otherwise after adopting the required procedure of law. It is denied that the persons junior to him were allowed to serve consequently, except Smt. Meena Devi W/o late Shri Bhagat Chand and Bimla Devi W/o late Shri Jagat Singh who were engaged on compassionate ground after 24.8.1998 after the death of their husbands, who were working with the department on daily paid basis prior to 24.8.1998 and that the petitioner misled the Court by making allegations on Shri J.C Rana Director of Agriculture, HP to order the respondent No.3 to disengage the services of the petitioner. The respondent No.2 directed the respondent No.3 on 31.5.2003 to implement the award and incase the service are no longer required due to non availability of work etc, in such event the services of the DPL may be retrenched by following the section 25-F of the Industrial Disputes Act, 1947 and as such the question of leveling the charges against Shri J.C Rana, Director of Agriculture, HP does not arise at all and prayed for dismissal of the claim petition.

4. No rejoinder filed. The following issues were framed by this court on 19.1.2006 on the pleadings of the parties.

6. Whether the services of the petitioner has been illegally retrenched by respondent without complying the provisions of ID Act, 1947? If so its effect? ..OPP.

7. If issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled to? ..OPP.

8. Whether the petitioner is debarred to file the present petition due to his own act, conducts and deeds? ..OPP.

4. Relief.

5. I have heard the Ld. Counsel for petitioner and Ld. ADA for respondent and have also gone through the record of the case.

6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under:-

Issue No. 1 : Yes.

Issue No. 2 : Entitled for reinstatement with seniority and continuity in service along-with back wages @ 50%.

Issue No. 3 : No.

Relief : Reference answered in affirmative per operative part of award.

REASONS FOR FINDINGS

Issue No.1 :

7. Coming to issue No.1, the petitioner has examined himself as PW-1 who has stated that he was engaged as clerk in the year 1984 on daily wages and worked as such till 7th September, 1987 and then his services were disengaged and thereafter he approached the Hon'ble High Court of HP which case was decided in his favour and then he was reengaged on the directions of Hon'ble High Court and then his services were disengaged after four days without following any procedure and then he raised Industrial Dispute in 1988 which was allowed in his favour, the copy of which is Ex. P-1 and then he joined on 12th May, 2003 but his joining was not accepted by the department and again he resumed his duties on 14th July, 2006 and again his services were terminated by respondent No.3 on the directions of respondent No.2 for want of work. He made a direct allegation against the Director that his services were terminated with malafide intention and then he approached the Court for redressal of his grievances. There is a plenty of work with the respondent and several works are continuing and his fellow workers Smt. Beemla Devi, Shri

Ramlendar Singh, Shri Madan Singh, Shri Ajghar Ali, Champa Devi, Yashoda Devi and Narinder are still working in the department and as per the policy of the government, the employees working in the department from 1997-1998 have been made regular by the State Government and the letter of termination served upon him is wrong and illegal. After his termination, he approached the Administrative Tribunal but he was made to withdraw the case on the assurance to consider his representation but the Secretary did not consider his representation and then he filed the present petition through Conciliation Officer.

8. To rebut the case of the petitioner, the respondent examined Shri Kripa Ram, Soil Testing Officer, Dhaulakaun, District Sirmaur as RW-1 who has stated that he is posted as Soil Testing Officer at Dhaulakaun since, 2005 and he is well conversant with the facts of the case. The petitioner was engaged as daily waged casual labourer at Poanta Sahib on 1.5.1984 for discharging the work of serving the notice to farmers which work was of temporary in nature and the petitioner remained in this office w.e.f. 1.5.1984 to 31.8.1987 and then the petitioner worked at Sudawala Farm, Dhaulakaun from 30.7.1988 to 2.8.1988 and thereafter the petitioner absented himself, who was called up vide letter Ex. RA but without effect and even the letter was tampered with by the petitioner. The carbon copy of the letter is Ex. RB, on the basis of which the petitioner got the relief from the Labour Court and as such was reengaged but was disengaged on 31.8.2003 for want of work on payment of compensation alongwith one months notice vide letter Ex. RC and the petitioner accepted the same without protest.

9. The case of the petitioner is that his services were terminated by the respondent malafidely by the Director Agriculture in order to harass and humiliate him as he levelled personal allegations against him and even this court has ordered for his reinstatement vide award dated 30.4.2003 and as such he is entitled to be reinstated alongwith seniority and continuity in service with back wages.

10. On the contrary, the respondents contend that the petitioner was rightly terminated from service by the respondent for want of work after complying with the requirement of section 25-F of Industrial Disputes Act, 1947 by making a payment of one month salary and serving notice upon the petitioner and as such the petitioner is not entitled to any relief as prayed for by him.

11. I have considered the respective contention of both the parties and have scrutinized the record of the case.

12. After the close scrutiny of the record of the case, it is clear that the respondents tried to establish on record that the petitioner tampered with the record of the case on the basis of which he got the relief from the Labour Court earlier but it remains a fact that when RW-1 Shri Kripa Ram Soil Testing Officer Dhaulakaun was asked to show the tampered record done by the petitioner, he answered that there is no evidence on record which could show that the petitioner has tampered with the record. Apart from it, RW-1 could not prove on record that there was no work with the respondent when the services were disengaged on 31.8.2003. It is significant to note that the Labour Court in Ref. No. 170 of 1998 ordered for reinstatement of petitioner in service on 30.4.2003 from the date of reference i.e 24.8.1998 and thereafter, the petitioner joined his services on 12th May, 2003 but his joining was not accepted by the respondents and again he resumed his duties on 14th July, 2003 but after about 1 and ½ months the services of the petitioner were disengaged by the respondent No.3 after serving one month notice on the ground of no work available with the respondents but the respondent has admitted that Smt. Bimla Devi and Meena Devi were engaged on 24.8.1998 on compassionate ground and as such it remains a fact that Smt. Bimla Devi and Meena Devi are the juniors of the petitioner who are still continuing with the respondent even if they were engaged on compassionate grounds. It is well settled in 2007 LLR 72 SC INCASE TITLED AS STATE OF HARYANA VS. DILBAG SINGH that labour court found the person junior to respondent was still working and thus there was breach of section 25-G and 25-F of the Act, Court directed reinstatement with 50% back wages. In the instant case, the respondents have admitted that Smt. Meena Devi and Bimla Devi were engaged after 24.8.1998 and as such junior to the petitioner and thus there is utter violation of section 25-H of the Industrial Disputes Act, 1947. Apart from it, I have also observed that the respondents have flouted the award passed by the Labour Court earlier on 30.4.2003 Ex. P-1 knowing fully well that it ordered for reinstatement of petitioner in service from the date of reference but again disengaged him from service for the reasons best known to the respondents which is not warranted under the law especially when there is sufficient work for the petitioner and the respondents have failed to prove on record that the petitioner ever tampered with the record of the case for seeking relief in earlier award passed by the Labour Court and further his juniors Smt. Meena Devi and Bimla Devi are still continuing with the respondent department and obviously therefore I have no hesitation in coming to the conclusion that services of the petitioner have been illegally retrenched by the respondents without complying with the provisions of Industrial Disputes Act, 1947 and as such this issue is decided in favour of petitioner and against the respondents.

Issue No. 2 :

13. Since I have held under issue No.1 above that the services of the petitioner have been illegally retrenched by the respondents without complying with the provisions of Industrial Disputes Act, 1947 and as such the petitioner is ordered to be reinstated in service forthwith alongwith seniority and continuity in service from the date of termination with 50% back wages. Accordingly this issue is decided in favour of petitioner and against the respondents.

Issue No. 3 :

14. In support of this issue, no evidence was led by the respondents in order to show as to how the petitioner is debarred from filing this petition by his own acts, conducts and deeds. In view of no evidence on record, I have no option but to hold that the petitioner is not debarred from filing the petition by his own acts, conducts and deeds and as such this issue is decided in favour of petitioner and against the respondents.

Relief :

As a sequel to my above discussion and findings on issue No. 1 to 3 above, the claim of the petitioner succeeds and is hereby allowed and as such the petitioner is ordered to be reinstated in service forthwith along-with seniority and continuity in service from the date of termination with 50% back wages and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 25th day of September, 2008 in the presence of parties.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court, Shimla.

**In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla
Camp at Nahan**

Ref. No. 50 of 2005

Instituted on. 30.4.2001

Decided on. 25.9.2008

1. Kedar Singh s/o Shri Nain Singh R/o Village Dharwa, P.O Jhakhando, Tehsil Shillai, District Sirmaur, HP.
2. Jagat Singh S/o Shri Mani Ram R/o Village and P.O Jhakhando, Tehsil Shillai, District Sirmaur, HP.
3. Jiwan Singh S/o Shri Jeet Singh R/o Village and P.O Jhakhando, Tehsil Shillai, District Sirmaur, HP.
4. Banshi Ram, S/o Shri Bhajju Ram R/o Village and P.O Jhakhando, Tehsil Shillai, District Sirmaur, HP.
5. Mahar Singh S/o Shri Kumbhia Ram R/o Village Koti Bunch, P.O Bhunch, Tehsil Shillai District Sirmaur, H.P. *..Petitioners.*

Versus

4. The State of Himachal Pradesh through the Secretary (PWD) with Hqrs at Shimla.
5. The Superintending Engineer, HPPWD Circle Nahan District Sirmaur, H.P.
6. The Executive Engineer, HPPWD B&R Division Shillai, District Sirmaur, H.P. *..Respondents.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner.— Shri A.K Gupta, Ld. Csl.

For respondent.—Shri Prakash Thakur, Ld. ADA.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:-

“Whether the termination of services of 1. Shri Kedar Singh S/o Shri Nain Singh 2.Shri Jagat Singh S/o Shri Mani Ram 3. Shri Jiwan Singh S/o Shri Jeet Singh 4. Shri Banshi Ram S/o Shri Bhaju Ram 5. Shri Mehar Singh S/o Shri Khumbia Ram workmen by the Executive Engineer HPPWD (B&R) Division Shillai, District Sirmaur, HP w.e.f. month, 6/90, 4/86, 2/86, 8/86 and 6/87 without complying the provisions of the Industrial Disputes Act, 1947 is proper and justified? If not, what relief of service benefits and amount of compensation the above aggrieved workmen are entitled to?”

2. The petitioners have filed a claim asserting therein that they were working on daily wages basis for the several years under the different Executive Engineers HPPWD Division Shillai and their services were disengaged from the dates/years as shown in the reference order without complying with the mandatory provisions of section 25-F and 25-H of the Industrial Disputes Act, 1947. No notice nor any compensation was paid to the petitioners before disengaging their services while all the petitioner had completed 240 days of service in each calendar year and that the persons who were working along with the petitioners and were junior to them have been retained by the respondent employers and even fresh engagements have also been made after the disengagement of the services of the petitioners which amounts to the violation of the mandatory provisions of section 25-H of the Industrial Disputes Act, 1947 and also in violation of the principle of last come first go and that the retrenchment of the petitioners from service is unjustified on the ground that a lot of work is available in the Division and the petitioners requested the respondent employer for their reengagement but in vain and that the action of the respondent employer is unjustified, arbitrary and also violative of the mandatory provisions of the law and as such prayed for their reinstatement in service with seniority and back wages, hence this claim duly supported by an affidavit.

3. The respondent resisted and contested the claim of the petitioners, which filed reply inter alia raising preliminary objections of maintainability and that the claim petition is bad in the eyes of law and that the petitioners have directly invoked the jurisdiction of this Court without exhausting the statutory remedies available to them for the redressal of their grievances and that the cause of action to file and maintain the claim stated to have been accrued during the year 1986 to 1990 whereas the claim petition has been filed after a lapse of more than one and half decade without giving any plausible and cogent reasons and as such the same is time barred and that the petitioners are estopped to file and maintain the petition by their own acts, deeds and conduct and they have not come to the court with clean hands, who have concealed the material facts with intent to mislead the Court to take the decision of their choice and that the services of the petitioners were engaged by the respondent department during 4/1984, 5/1984, 10/1984, 3/1981 and 1/1985 respectively as beldar on daily wages basis and the mandays chart of the petitioners are annexure R-1 to R-5 and as such the petitioners worked irregular and in careless manner and ultimately left the job at their own without assigning any cogent reasons whereas their contemporaries are working regularly, hence the petitioners lost their seniority. The petitioner No. 4 & 5 completed 240 days of service during the year 1985 and 1986 respectively but during the year 1986 and 1987 they worked for 120 days and 134 days and ultimately left the job at their own and the abandonment of job by the workman at his own is not retrenchment within the meaning of section 2 (oo) of the Industrial Disputes Act, 1947. On merits, it is contended that the petitioners are not entitled to any relief and as such their services do not deserve reengagement with retrospective effect because it would disturb the settled position of law and even there is no violation of provisions of section 25-F and 25-H of Industrial Disputes Act on behalf of respondent and that the petitioners have not been retrenched by the respondent but they left the job of their own. The detail of mandays chart of the petitioners are as under:—

1.	Kedar Singh Working days	1984 61	1985 13	1989 8 1	1990 26	
2.	Jagat Singh Working days	1984 46	1985 178	1986 75		
3.	Jiwan Singh Working days	1984 29	1985 169	1986 56		
4.	Bansi Ram Working days	1981 67	1982 57	1983 122	1984 29	1985 268 1986 120
5.	Mehar Singh Working days	1985 217	1986 287	1987 134		

And as such prayed for dismissal of the claim of the petitioners.

4. No rejoinder filed. The following issues were framed by this court on 19.1.2006 on the pleadings of the parties.

9. Whether the services of the petitioners have been illegally terminated by the respondent? If so its effect? ..OPP.
10. If issue No.1 is proved in affirmative, to what relief of service benefits the petitioners are entitled to? ..OPP.
11. Whether the petitioners have abandoned their job at their own? If so, its effect? ..OPR.

12. Whether the petition in the present form is not maintainable?

..OPR.

13. Relief.

5. I have heard the Ld. Counsel for petitioner and Ld. ADA for respondent and have also gone through the record of the case.

6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under:—

Issue No. 1 : Partly Yes and partly No.

Issue No. 2 : S/Shri Jagat Singh, Banshi Ram and Mehar Singh are entitled for reinstatement with seniority and continuity in service but without back wages while the claim of Kedar Singh and Jiwan Singh is dismissed.

Issue No. 3 : No.

Issue No. 4 : No.

Relief : Reference partly answered in affirmative per operative part of award.

REASONS FOR FINDINGS

Issue No.1:

7. Coming to issue No.1, the petitioners have examined Shri Kedar Singh as PW-1 who has stated that he was engaged as beldar by respondent in 1983 and was removed in 1990. He has completed 240 days in the preceding year and the record produced by the respondent before Labour Office/Conciliation Officer is correct photocopy of which is mark X. No notice nor any compensation was paid to him at the time of his removal and the other persons who were working with him are still working and even new persons have been engaged after their removal who are S/Shri Chamel Singh, Bishan Singh, Dharam Singh and Sunder Singh who are still working in the same division. The persons who were engaged along-with him have been regularized as per policy of the Government i.e after eight years. He and other workers approached the department many times for his reengagement but in vain and his statement be read on behalf of all the petitioners.

8. To rebut the case of the petitioners, the respondent examined Er. B.B Sharma as RW-1 who has stated that he is posted as an Assistant Engineer at Shillai since 2004 and he is well conversant with the facts of the case. The petitioner left the job in 1990 at his own and proved the mandays chart Ex. RA. The petitioner has not completed 240 days in any calendar year and as per muster roll for the year 1990, it was issued for 17 workers and all the seventeen workers reported for duties but the petitioners failed to report for duties. No junior to the petitioner has been engaged. Jagat Singh and Jiwan Singh petitioners were engaged in 1984, who left the job in 1986 and they have not completed 240 days. Banshi Ram was engaged in 1981, who left the job in 1986 who completed 240 days in 1985. Similarly Mehar Singh was engaged in 1985 and he left the job in 1987, who completed 240 days in 1985. The petitioners have not completed 240 days in preceding year and proved the mandays chart Ex. RB and Ex. RE. The work was available with the department but the petitioners did not turn up for duties and the department is having the same number of beldars when the petitioners left the job of their own.

9. The case of the petitioners is that they being the daily waged workers having completed more than 240 working days in a calendar year and their juniors are still working with the department are entitled for reinstatement in service with seniority and continuity along with back wages.

10. On the contrary, the respondents contend that the petitioners have not completed 240 working days in a calendar year preceding their abandonment and as such they are not entitled to any relief and no juniors to the petitioners were engaged by the respondent.

11. I have considered the respective contention of both the parties and have scrutinized the record of the case.

12. After the close scrutiny of the record of the case, it remains a fact that the petitioners S/Shri Jagat Singh, Banshi Ram and Mehar Singh petitioner No.2, 4 & 5 have completed more than 240 working days in a calendar year as Jagat Singh had completed 253 days after counting his working days for 12 calendar months of 1985-86 as per

seniority list Ex. RB, Shri Bansī Ram worked for 250 days in the year 1985-86 as is evident from Ex. RD and Shri Mehar Singh had completed 287 days in the year 1986 as is evident from Ex. RE while other petitioners S/Shri Kedar Singh petitioner No.1 and Jiwan Singh petitioner No.3 could not complete requisite number of 240 working days in any calendar year as is evident from Ex. RA and Ex. RC. No doubt, Ld. ADA for respondent tried to establish on record that the petitioners have to establish on record that they completed 240 working days in a calendar year preceding their termination but it remains a fact that the petitioners have to prove on record that they completed 240 working days in any calendar year preceding their termination and even the petitioners S/Shri Jagat Singh Bansī Ram and Mehar Singh have proved on record that they had completed 240 working days in any calendar year preceding their termination. No doubt, Ld. ADA for respondent tried to establish on record that the requirement of completion of 240 working days is ought to be proved from the year preceding their termination and not in any calendar year. I find no force in the contention of Ld. ADA for respondent as it is well settled in CWP No. 517 of 2005 decided on 30.4.2007 in case titled State of HP & Others V/S Bhtag Ram & Another as reported in latest HLJ 2007 (HP) 903 in which it was held that:—

“Counting of 240 days not necessary in 12 calendar months. It is not necessary of the workman to complete 240 days during the 12 months for taking the benefits.

After the close scrutiny of the above cited ruling coupled with the provisions of section 25-F of the Industrial Disputes Act, 1947, it is clear that the provision of section 25-F is attracted where the petitioner has put in 240 working in any calendar year preceding his termination. In the instant case, the petitioners S/Shri Jagat Singh, Bansī Ram and Mehar Singh have fully proved on record that they had worked for more than 240 working days in any calendar year preceding their termination and no notice nor any compensation was paid to them at the time of their termination while the other petitioners S/Shri Kedar Singh and Jiwan Singh have failed to prove on record that they completed 240 working days in any calendar year preceding their termination and as such they are not entitled to protection of section 25-F of the Industrial Disputes Act, 1947 and obviously therefore I have no hesitation in coming to the conclusion that the services of the petitioners S/Shri Jagat Singh, Bansī Ram and Mehar Singh have been illegally terminated by respondents while the services of S/Shri Kedar Singh and Jiwan Singh was rightly terminated by the respondent who have not completed 240 working days in any calendar year preceding their termination. According the issue is partly decided in favour of petitioners S/Shri Jagat Singh, Bansī Ram and Mehar Singh and partly against Kedar Singh and Jiwan Singh.

Issue No .2 :

13. Since I have held under issue No.1 above, that the services of petitioners S/Shri Jagat Singh, Bansī Ram and Mehar Singh have been illegally terminated by the respondent and as such they are entitled to be reengaged forthwith with seniority and continuity in service from the date of their termination but without back-wages in view of peculiar circumstances of the case and the other petitioners S/Shri Kedar Singh and Jiwan Singh are not entitled to any relief as they have not completed 240 working days in any calendar year preceding their termination. Accordingly the issue is partly decided in favour of petitioners S/Shri Jagat Singh, Bansī Ram and Mehar Singh.

Issue No.3 :

14. In support of this issue, no evidence was led by the respondents nor it was pressed during the course of arguments. However, it is well settled in State of HP & Others Vs. Bhagat Ram & Another as reported in latest HLJ 2007 (HP) 903 in which it was held that:—

“Plea of abandonment of job- merely raising the plea of abandonment is nothing but has to be established on the basis of facts. No facts led to substantiate the plea.”

15. Thus, having regard to no evidence on this issue of abandonment, it can safely be concluded that the petitioners have not abandoned the job of their own. Accordingly, the issue is decided in favour of petitioners and against the respondents.

Issue No. 4:

16. In support of this issue, no evidence was led by the respondents being the legal issue. However, I have scrutinized the record of the case and observed that the petition is perfectly maintainable in the present form. Accordingly the issue is decided in favour of petitioners and against the respondents.

Relief :

As a sequel to my above discussion and findings on issue No. 1 to 4 above, the claim of the petitioners S/Shri Jagat Singh, Bansī Ram and Mehar Singh succeeds and is hereby allowed while the claim of other petitioners S/shri

Kedar Singh and Jiwan Singh fails and is hereby dismissed. The petitioners S/Shri Jagat Singh, Banshi Ram and Mehar singh are ordered to be reinstated forthwith along-with seniority and continuity in service from the date of their termination but without back wages in view of the peculiar circumstances of the case and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 25th day of September, 2008 in the presence of parties.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Labour Court cum-Industrial Tribunal,
Shimla Camp at Nahan.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla

Ref. No. 60 of 2001

Instituted on. 30.4.2001

Decided on. 26.9.2008

Phool Singh s/o Shri Bhangi Ram R/o Village Dhaun, P.O Rami, Tehsil Nahan, District Sirmaur, H.P.

..Petitioner.

Versus

The Executive Engineer, HPPWD Division Nahan, District Sirmaur, H. P.

..Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri A.K Gupta, Ld. Csl.

For respondent : Shri Prakash Thakur, Ld. ADA.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:—

“Whether the retrenchment of Shri Phool Singh S/o Shri Bhangi Ram workman by the Executive Engineer HPPWD (B&R) Division Nahan District Sirmaur without complying the section 25-F of the Industrial Disputes Act, 1947 is legal and justified? If not, to what seniority service benefits and relief the concerned workman Shri Phool Singh S/o Shri Bhangi Ram is entitled to?”

2. The petitioner has filed a separate claim asserting therein that he was engaged as daily wages beldar under the respondent in the year 1985 and worked as such upto December, 1988 when his services were dispensed with illegally and unjustifiably in violation of section 25-F of the Industrial Disputes Act, 1947 and as such the petitioner has completed 240 days of service for the application of section 25-F of the Industrial Disputes Act, 1947. Even the principle of last come first go was not followed while disengaging the services of the petitioner and the persons junior to the petitioner are still working with the respondent department and the respondent has also violated the section 25-H of the Industrial Disputes Act, 1947 as the petitioner was not called for rejoining the duties when fresh recruitment was made after disengagement of the services of the petitioner and this process is still going on and that the termination of the services of the petitioner is unjustified, arbitrary and also violative of mandatory provisions of Industrial disputes Act, 1947 and as such prayed for reinstatement with seniority and continuity in service along with back wages, hence this claim.

3. The respondent resisted and contested the claim of the petitioner, which filed reply interalia raising preliminary objections of barred by limitation and abandonment. On merits, it is contended that the petitioner was engaged during October, 1985 who worked under the department on daily wages basis upto 7/1988 and then the petitioner left the job at his own will, who never approached the department for his reengagement. It is denied that the respondent department terminated the services of the petitioner, who himself has abandoned the job of his own so the question to follow the principle of last come first go does not arise as the petitioner never informed the respondent

regarding his whereabouts or he did not intend to rejoin the services as the muster roll remained issued during the period and as such prayed for the dismissal of the claim petition.

4. No rejoinder filed. The following issues were framed by this court on 16.9.2003 on the pleadings of the parties.

14. Whether retrenchment of the petitioner by respondent is violative of section 25-F of Industrial Disputes Act, 1947? ..OPP.

15. Whether the petitioner had himself abandoned the job as alleged and if so its effect? ..OPR.

16. Relief.

5. I have heard the Ld. Counsel for petitioner and Ld. ADA for respondent and have also gone through the record of the case.

6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under:—

Issue No. 1 : Yes.

Issue No. 2 : Not proved.

Relief : Reference answered in affirmative per operative part of award.

REASONS FOR FINDINGS

Issue No. 1:

7. Coming to issue No.1, the petitioner has examined himself as PW-1 who has stated that he was employed by the respondent as beldar in October, 1985 and worked as such upto August, 1988 when his services were terminated by the respondent orally without any notice, charge sheet and payment of retrenchment compensation, who had completed 240 days in each calendar year. Junior persons are still working with the department and even new recruitment has taken place. Some persons were reengaged who were terminated along with him on the direction of the Court. He had not left the job of his own and as such prayed for reinstatement in job with all service benefits including seniority and back wages.

8. To rebut the case of the petitioner, the respondent has examined Er. Ajay verma who has stated that the respondent has not terminated the services of the petitioner whereas he abandoned the job of his own and the petitioner approached this Court after a lapse of 12 years i.e at a very belated stage and as such the petitioner is not entitled to any relief.

9. The case of the petitioner is that he being the daily wages beldar had completed 240 working days in a calendar year preceding his termination, who was never served with any notice nor paid retrenchment compensation before his termination and as such he is entitled to be reinstated in service along with all consequential benefits including back wages.

10. On the contrary, the respondent contends that the petitioner has not completed 240 working days in a calendar year preceding his abandonment and as such he is not entitled to any relief and no junior to the petitioner was engaged by the respondent and even the petitioner approached the Court after a lapse of 12 years.

11. I have considered the respective contention of both the parties and have scrutinized the record of the case.

12. After the close scrutiny of the record of the case, it is clear that the petitioner has put in 277 days in the year 1986 and 342 days in the year 1987 as is evident from the certificate issued by the Executive Engineer HPPWD Nahan nor the respondent had challenged in its reply that the petitioner has not completed 240 working days in any calendar year. The stand of the respondent is that the petitioner abandoned the job of his own, who was never terminated from service by the respondent and the petitioner raised an Industrial Dispute after a lapse of 12 years. Since it is fully proved on record that the petitioner has put in 277 working days in 1986 and 342 working days in 1987 and 170 days till July 1988. It is well settled that in Harnam Singh & Others Vs. Punjab State Electricity Board & Others in Civil Appeal No. 5401 of 1998 dated September 12, of 2000 of Hon'ble Supreme Court in which it was held that:—

“Where delay of 12 years raising the Industrial dispute held valid”.

Similarly in other case titled Deepa Ram Vs. State of HP & Others reported in 2005 (1) HLJ 248 in which it was held that:—

“Delay of even 14 years has been held not to come in the way of the poor man, whose services have been illegally terminated in claiming his relief under the provisions of the Industrial Disputes Act.”

Thus, having regard to entire evidence on record and in view of the fact that the petitioner has put in 277 days in 1986 and 342 days in 1987 and as such fulfilled the requirement of section 25-F of the Industrial Disputes Act, 1947 and further it is proved on record that no notice nor retrenchment compensation was paid to the petitioner at the time of his termination, obviously therefore I have no hesitation in coming to the conclusion that the retrenchment of petitioner by respondent is violative of section 25-F of Industrial Disputes Act, 1947 and as such this issue is decided in favour of the petitioner and against the respondent.

Issue No. 2:

13. In support of this issue, no evidence was led by the respondent nor it was pressed during the course of arguments. However, it is well settled in State of HP & Others Vs. Bhagat Ram & another Another as reported in latest HLJ 2007 (HP) 903 in which it was held that:—

“Plea of abandonment of job- merely raising the plea of abandonment is nothing but has to be established on the basis of facts. No facts led to substantiate the plea.”

Thus, having regard to no evidence on this issue of abandonment, it can safely be concluded that the petitioner has not abandoned the job of his own. Accordingly, the issue is decided in favour of petitioner and against the respondent.

Relief:

As a sequel to my above discussion and findings on issue No. 1 & 2 above, the claim of the petitioner succeeds and is hereby allowed and as such the petitioner is ordered to be reinstated forthwith along-with seniority and continuity in service from the date of termination but without back wages in view of the peculiar circumstances of the case and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 26th day of September, 2008 in the presence of parties.

JAGMOHAN SINGH MAHANTAN,
*Presiding Judge,
Labour court, Shimla.*

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla

Ref. No. 34 of 2006

Instituted on. 18.3.2006

Decided on. 26.9.2008

Arvind Jaswal, S/o Shri Rupinder Singh Jaswal R/o Shamsherpur Cantt area, Nahan, District Sirmaur, H.P.

..Petitioner.

Versus

1. The State of Himachal Pradesh through Secretary (IPH) with Hqrs at Shimla.

2. The Superintending Engineer, IPH Department Circle Nahan, District Sirmaur, H.P.

3. The Executive Engineer, IPH Division Nahan, District Sirmaur, H.P.

..Respondents.

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri A.K Gupta, Ld. Csl.

For respondent : Shri Prakash Thakur, Ld. ADA.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:—

“Whether the termination of services of Shri Arvind Jaswal s/o Shri Rupinder Jaswal workman by the Executive Engineer, I&PH Division Nahan District Sirmaur, HP w.e.f. 1.9.1999 without complying the provisions of the Industrial disputes Act, 1947 is proper and justified? If not, what relief of service benefits and amount of compensation the above aggrieved workman is entitled to?”

2. The petitioner has filed a separate claim asserting therein that he was engaged as daily waged Motor Mate w.e.f. 10th March, 1997 under the IPH Division, Nahan and worked as such upto September, 1999 when his services were disengaged by the respondent employers, who had completed 240 days of service in a calendar year prior to the date of his termination and as per section 25-F of the Industrial Disputes Act, 1947, the respondent employer could not terminate the service of the petitioner without complying with the mandatory provisions of section 25-F of the Industrial Disputes Act but the respondent did not observe the mandatory provisions of law and services of the petitioner were disengaged illegally and even no notice nor any compensation was paid to the petitioner before disengaging his services and that while disengaging the services of the petitioner, the principle of last come first go was also not followed and the persons junior to the petitioner are still working and even many new persons were engaged which can be verified from the seniority list of the daily wagers and that after the disengagement of the services of the petitioner, he approached the concerned authorities for his reengagement but in vain and that after the disengagement of service, the petitioner has not been gainfully employed any where and as such prayed for reinstatement with seniority and continuity in service along-with full back wages from the date of his termination till the dispute is decided with arrears and also with 12% interest, hence this claim.

3. The respondent resisted and contested the claim of the petitioner, which filed reply inter alia contending that petitioner has worked from 3/1997 to 10/1999. It is denied that the petitioner has completed 240 days of service in calendar year prior to the date of leaving the job i.e year 1999. The petitioner has not been terminated as alleged but has voluntarily left the job and the mandays chart of the petitioner is annexure R-1. From the mandays chart, it is clear that the petitioner has not completed 240 days in the calendar year 1998 & 1999, whereas the applicant has completed 243 days in the calendar year 1997 and the petitioner was irregular in his job, who used to leave the work frequently on his own sweet will and after 10/1999 the petitioner has never contacted the department for reengagement and that no junior to the petitioner has been reengaged by the department except on compassionate ground with the sanction of the government and as such prayed for the dismissal of the claim of the petitioner.

4. No rejoinder filed. The following issues were framed by this court on 24.11 2006 on the pleadings of the parties.

17. Whether the services of the petitioner has been illegally terminated by the respondent without complying with the provisions of ID Act, 1947? If so, its effect? ..OPP.
18. If issue No-1 is proved in affirmative to what relief the petitioner is entitled to? ..OPP.
19. Whether the present petition is barred by limitation and is not maintainable? ..OPR.
20. Relief.

5. I have heard the Ld. Counsel for petitioner and Ld. ADA for respondents and have also gone through the record of the case.

6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under:—

Issue No. 1 : Yes.

Issue No. 2 : Entitled for reinstatement forthwith with seniority and continuity in service but with any back wages.

Issue No. 3 : No.

Relief : Reference answered in affirmative per operative part of award.

REASONS FOR FINDINGS

Issue No. 1:

7. Coming to issue No.1, the petitioner has examined himself as PW-1 who has stated that he was engaged as Motor Mate on March, 1997 and worked till October, 1999. No notice nor any compensation was paid to him at the time of his removal. He had completed 240 days and the photocopy of the mandays chart is mark X. The department was giving the breaks at their own. He had never remained absent from his duties and junior to him are still working at Jamta and other places in the Division.

8. To rebut the case of the petitioner, the respondent has examined Er. S.S Diwedi as RW-1 who has stated that the petitioner was engaged in March, 1997 as beldar, who worked till October, 1999. The petitioner has left the job himself without informing the department. The petitioner worked for 243 days in 1997, 144 days in 1998 and 207 days in 1999, who has not completed 240 days in the preceding year from the date of termination. The mandays chart of the petitioner is Ex. R/A and no junior to the petitioner has been engaged except on compassionate grounds as per order of the Court. No notice has been given to the petitioner as he abandoned the job himself.

9. The case of the petitioner is that he being the daily wages Motor Mate had completed 240 working days in a calendar year preceding his termination who was never served with any notice nor paid retrenchment compensation before his termination and as such he is entitled to be reinstated in service along with all consequential benefits including back wages.

10. On the contrary, the respondents contend that the petitioner has not completed 240 working days in a calendar year preceding his termination and as such he is not entitled to any relief and no junior to the petitioner was engaged by the respondents.

11. I have considered the respective contention of both the parties and have scrutinized the record of the case.

18. After the close scrutiny of the record of the case, it is admitted case of the respondent that the petitioner had completed 243 working days in the year 1997. No doubt, Ld. ADA for respondent tried to establish on record that the requirement of completion of 240 working days is ought to be for the year preceding his termination and not in any calendar year. I find no force in the contention of Ld. ADA for respondent as it is well settled in CWP No. 517 of 2005 decided on 30.4.2007 in case titled State of HP & Others V/S Bhtag Ram & Another as reported in latest HLJ 2007 (HP) 903 in which it was held that:—

“Counting of 240 days not necessary in 12 calendar months. It is not necessary of the workman to complete 240 days during the 12 months for taking the benefits.

After the close scrutiny of the above cited ruling coupled with the provisions of section 25-F of the Industrial Disputes Act, 1947, it is clear that the provision of section 25-F is attracted where the petitioner has put in 240 working in any calendar year preceding his termination. In the instant case, the petitioner has put in 243 working days in the year 1997 and as such the requirement of section 25-F of Industrial Disputes Act, 1947 has been fulfilled in this case and obviously therefore I have no hesitation in coming to the conclusion that the service of the petitioner has been terminated wrongly by the respondent without complying with the provisions of I.D Act, 1947 and as such this issue is decided in favour of petitioner and against the respondent.

Issue No. 2:

12. Since I have held under issue No.1 above that the services of the petitioner has been terminated illegally by the respondent without complying with the provisions of Industrial disputes Act, 1947, hence the petitioner is entitled to be reinstated forthwith along-with seniority and continuity in service but without back wages in view of the peculiar circumstances of the case. Accordingly the issue is decided in favour of petitioner and against the respondent.

Issue No. 3:

13. In support of this issue, no evidence was led by the respondents. However I have scrutinized the record of the case and observed that there is no limitation under the Industrial Disputes Act, 1947 as it was held by their

lordship of Hon'ble Supreme Court reported in (1999) 6 SCC 82 case titled as Ajayab Singh Vs. Sirhind Co-operative Marketing –cum- processing Service Society Limited and Another. In which it was held that:—

“the provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”

Accordingly, on the strength of this ruling, it can safely be concluded that there is no limitation under the Industrial Disputes Act, 1947 and as such issue is decided in negative.

Relief:

As a sequel to my above discussion and findings on issue No. 1 to 3 above, the claim of the petitioner succeeds and is hereby allowed and as such the petitioner is ordered to be reinstated forthwith along-with seniority and continuity in service from the date of termination but without back wages in view of the peculiar circumstances of the case and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 26th day of September, 2008 in the presence of parties.

JAGMOHAN SINGH MAHANTAN,
*Presiding Judge,
Labour court, Shimla.*

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla

Ref. No. 92 of 2001.

Instituted on. 16.5.2001.

Decided on. 29.9.2008.

H. P. Bhupinder Kumar, S/o Shri Laxmi Dutt R/o Village & P.O Tirmali, Dadahu, Tehsil Nahan, District Sirmaur,
..Petitioner.

Versus

Executive Engineer, HPSEB Division Nahan, District Sirmaur, H.P. ..Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri V.B Verma, Ld. Csl.

For respondent : Shri Bhagwan Chand, Ld. Csl.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:—

“Whether the plea of the Executive Engineer HPSEB Division Nahan, Sub Division Dadahu that Shri Bhupinder Kumar S/o Shri Laxmi Dutt, workman had left the job due to absentism is justified? If not, to what seniority, service benefits and relief, the concerned workman is entitled to.”

2. The petitioner has filed a claim asserting therein that the dispute has been referred to this Court to adjudicate upon the point that if services of the petitioner have been disengaged without any notice or compensation then as to when the benefits will be given to the petitioner and that the petitioner has completed 240 days of continuous service under the respondent in every calendar year w.e.f. 1992 to 1995 till his illegal disengagement and that the respondent has violated the provisions of section 25-F of the Industrial Disputes Act as the respondent has not issued

any notice nor paid the retrenchment compensation to the petitioner. The respondent has violated the provisions of section 25-H of the Industrial Dispute Act by engaging fresh persons ignoring the claim and seniority of the petitioner and also violated the provisions of section 25-B of the Industrial Disputes Act in violation of Standing Orders framed by the respondent themselves and that the action of the respondent in disengaging the services of the petitioner without any notice or retrenchment compensation is highly unjustified and is liable to be quashed and set aside and as such prayed for reinstatement in service with all consequential benefits, hence this claim duly supported by an affidavit.

3. The respondent resisted and contested the claim of the petitioner, which filed reply interalia raising preliminary objections of no legally enforceable cause of action against the respondent and that the application is bad for want of better particular and that the claim of the petitioner is hit by delay and laches. On merits, It is contended that the petitioner personally contacted the office of the respondent about the availability of work on daily wages basis and at that time some work was going on and the petitioner was engaged on daily wages basis from the date as shown in annexure RA-1. The petitioner was engaged on daily wages beldar w.e.f. 10.12.1993 and the services of the petitioner were never terminated but the petitioner left the job of his own will for the reasons best known to him. The detail of absence/presence of the petitioner clearly shows that the petitioner mostly remained absent from the roll for a long spell during his engagement and as such the petitioner has not completed 240 days continuous service in any of the calendar year and never attained the status of a temporary workman and the petitioner left the daily wages job at his own will and willfully absconded without intimating the respondent and that no new workers have been engaged as alleged by the petitioner and that the petitioner left the job of his own and it is not a termination as alleged by the petitioner and as such there is no necessity to comply with the provisions of section 25-F as he never worked for 240 days in any calendar year, hence prayed for dismissal of the claim petition

4. In the rejoinder, the petitioner controverted the assertions made in the reply and reiterated and reaffirmed the averments of the petition.

5. The following issues were framed by this Court on 2.4.2003 on the pleading of the parties.

1. Whether the plea of the respondent that the petitioner indulged in absentism and left the job is justified? ..OPR.
2. In case issue No-1 is not proved in affirmative, to what consequential service benefits, the petitioner is entitled to? ..OPP.
3. Relief.

6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings on the aforesaid issues are as under:—

Issue No. 1 : Yes

Issue No. 2 : Not entitled to any relief.

Relief : Reference answered in negative per operative part of award.

REASONS FOR FINDINGS

Issue No. 1:

8. Coming to issue No.1 the petitioner has examined himself as PW-1 who has stated that he worked as daily rated beldar with the respondent during 1992 to 1995 continuously and has completed the service of 240 days in each calendar year, who was retrenched in 1995 without any notice or compensation. After his retrenchment, fresh recruitment was made by the department. Junior to him S/shri Satya Ram and Madan Lal were retained but he was retrenched. He approached the department for his reengagement but in vain. He was retrenched in violation of the certified Standing Orders framed by the respondent and the work for which he was engaged is still available and he is unemployed after his retrenchment and as such prayed for reinstatement in service alongwith consequential benefits including back wages.

9. To rebut the case of the petitioner, the respondent has examined Er. P.P Singh, SDO Electrical Sub Division Dadahu, who has stated that he is posted as SDO Electrical Sub Division Dadahu District Sirmaur. The petitioner worked in the department as daily wages beldar from 10.12.1993 to 20.11.1994 with breaks in between and

from 20.11.1994, the petitioner did not turn up for his duty of his own. The petitioner did not inform the department orally or in writing and even no workman junior to him was engaged after the petitioner left the job. There is no work in the department for daily waged workers and since the petitioner left the job of his own, hence no notice was served upon him and proved the mandays chart of the petitioner Ex. RA which was prepared by him on the basis of official record maintained in the department.

10. The case of the petitioner is that he being the daily waged beldar had worked for more than 240 days in each calendar year, who is retrenched from service in the year 1995 without any notice or compensation and as such he is entitled for his reinstatement in service with all consequential service benefits including back wages.

11. On the contrary, the respondent contends that the petitioner worked in the department as daily wages beldar from 10.12.1993 to 20.11.1994 with breaks and since 20.11.1994, the petitioner did not turn up for his duty of his own and even the petitioner did not inform about it to the respondent department orally and in writing, who absented himself from service and no new daily waged workers have been engaged by the respondent department after the abandonment of the petitioner and as such he is not entitled to any relief as prayed by the petitioner.

12. I have considered the respective contention of both the parties and have scrutinized the record of the case.

13. After the close scrutiny of the record of the case, it remains a fact that petitioner had worked for sixteen days in the year 1993 and 214 days in 1994 as is evident from the detail of attendance of the petitioner Ex. RA placed on record. On the other hand, the petitioner could not prove on record that he had worked for more than 240 working days in a calendar year preceding his termination. No doubt, the petitioner tried to establish on record that his juniors S/Shri Satya Ram and Madan are still working with the respondent department but there is nothing on record which could show that when S/Shri Satya Ram and Madan were engaged by the respondent and whether they are still continuing with the respondent. In view of no such evidence on record, it can safely be concluded that S/Shri Satya Ram and Madan are not the juniors of the petitioner as their no official record were summoned by the petitioner. Apart from it, there is nothing on record which could show that the petitioner worked as daily rated beldar with the respondent during 1992 to 1995 continuously and had completed service of 240 days in each calendar year during this period. Apart from it the petitioner failed to produce any evidence to prove fact that he has worked for 240 days. No proof of receipt of salary or any record or order in that regard was produced. No co-worker was examined; attendance chart Ex. RA produced by the respondent has not been contradicted, hence workman has failed to discharge his burden that he was in employment for 240 days during preceding 12 months of date of termination of his service and the workman is not entitled to protection of section 25-F before his service was terminated. Here I am fortified with a view taken by the Hon'ble Supreme Court as reported in AIR 2006 SC 110 incase titled as Surendernagar District Panchyat Vs. Dahyabhai Amar Singh.

14. Thus, having regard to entire evidence on record it can safely be concluded that the petitioner has not completed 240 working days in a calendar year preceding his termination, who left the job of his own and therefore his termination is legal and justified and cannot be interfered with by this Court and as such this issue is decided in favour of respondent and against the petitioner.

Issue No. 2 :

15. Since I have held under issue No.1 above, that the petitioner has not completed 240 working days in calendar year preceding his termination, who left the job of his own, hence he is not entitled to any relief as prayed by him. Accordingly this issue is decided in favour of respondent and against the petitioner.

Relief :

As a sequel to my above discussion and findings on issue No.1 & 2 above, the claim of the petitioner fails and is hereby dismissed and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion, be consigned to records.

Announced in open court today on this day of 29th September, 2008 in the presence of parties.

J. S MAHANTAN,
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla

Ref. No. 316 of 2002

Instituted On.3.10.2002

Decided On. 30.09.2008

Ranbir Singh S/o shri Dhani Ram, R/o Village Agron, P.O Nagheta, Tehsil Paonta Sahib, District Sirmaur,
H.P. ..Petitioner.

Versus

The Professor Incharge, Horticulture Regional Research Station, Dhaulakaun, Tehsil Paonta Sahib, District
Sirmaur, H.P. ..Respondent.

*Reference under section 10 of the Industrial Disputes Act, 1947.**For petitioner* : Shri A.K Gupta, Ld. Csl.*For respondent* : Shri Omkar Jairath, Ld. Csl.**AWARD**

1. The following reference has been received from appropriate government by this Court for adjudication:—

“Whether the termination of the services of workman shri Ranbir Singh S/o Shri Dhani Ram w.e.f. 6/1996, without complying the provisions of section 25-F of the Industrial Disputes Act, 1947 by the The Professor Incharge, Horticulture Regional Research Station, Dhaulakaun, Tehsil Paonta Sahib, District Sirmaur, HP. is fair and justified? If not, what relief of service benefits including wages and seniority, the workman Shri Ranbir Singh is entitled to?”

2. The petitioner has filed a separate claim asserting therein that he is a workman defined under the Industrial Disputes Act, 1947 and that the services of the petitioner were illegally terminated by the respondent w.e.f. 6/1996 without complying the mandatory provisions of the Industrial Disputes Act and that the petitioner had worked with the respondent continuously as there was no break in service and that the respondent had not given any notice regarding the illegal termination of the petitioner nor any compensation as required under the law has been given to the petitioner and as such the petitioner had worked with the respondent honestly, efficiently and without any complaint whatsoever and that the petitioner is without job since his termination and the petitioner had not left the job of his own and as such prayed for reinstatement with all consequential benefits including back wages and seniority.

2. The respondent resisted and contested the claim of the petitioner, which filed reply inter alia raising preliminary objections that the petition is bad for want of better particulars as given in the title are not correct and the petitioner had already filed an O.A No. 1337/1996 before the State Administrative Tribunal on the same cause of action, which is pending for adjudication and as such the claim is not maintainable and that the reference made to this Court is illegal and the same needs to be withdrawn. On merits, it is contended that the petitioner has no cause to maintain this petition as he was engaged purely on seasonal work to perform seasonal field operation. It is denied that the services of the petitioner were terminated. Infact the petitioner abandoned the job of his own, who did not turn up for duty despite the grant of interim relief granted by the HP administrative Tribunal on 20.9.1996 in OA No. 1337/1996 filed by the petitioner and the year wise attendance chart of the petitioner engaged for the seasonal work is as under:—

1995	66 days
1996	202 days

And as such the benefits of the Industrial disputes Act, 1947 is not available to the petitioner, who never completed 240 days in any calendar year and that the petitioner has no cause to maintain the petition and the same is not maintainable. It is contended that the petitioner was engaged for seasonal work, when work was available and thereafter left the job at his own without any information, notice or even permission as per Standing Orders of the University regulating the service conditions of daily paid labourers and as such it can easily be presumed that the

petitioner left the job of his own and since the services of the petitioner were not terminated by the respondent and had left the job of his own accord without any permission of the competent authority and even after getting opportunity from the HP Administrative Tribunal, Shimla even by concealing the true facts, vide interim order dated 20.9.1996, again failed to report for duties and as such prayed for dismissal of the claim petition.

3. No rejoined filed. The following issues were framed by this Court on 15.9.2004 on the pleadings of the parties.

1. Whether the termination of the services of the petitioner w.e.f. 6/1996 without complying the provisions of section 25-F of the I.D Act, 1947 by respondent is fair and justified? ..OPR.
2. If issue No-1 is not proved to what relief of service benefits including wages and seniority, the petitioner is entitled to? ..OPP.
3. Whether the claim petition is not maintainable in view of preliminary objection No. 2 & 3? ..OPR.
4. Whether there is no cause of action to maintain the claim petition as alleged? ..OPR.
5. Whether the petitioner abandoned the job of his own as alleged? ..OPR.
6. Relief.

4. I have heard the Learned Counsels for the parties and have also gone through the record of the case.

5. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings on the aforesaid issues are as under:—

Issue No. 1 : No

Issue No. 2 : Not entitled to any relief.

Issue No. 3 : No.

Issue No. 4 : No

Issue No. 5 : No.

Relief : Reference answered in negative per operative of the award.

REASONS FOR FINDINGS

Issue No.1 :

6. In order to prove this issue, the petitioner has examined himself as PW-1 who has stated that he was appointed as daily wages worker by the respondent w.e.f. March, 1995 and continued as such till 1999 on which date his services were terminated, who has completed 240 days during each calendar year/preceding year of his service, who was orally terminated and no notice or charge sheet was issued to him nor any retrenchment compensation was paid to him. No enquiry was ever conducted against him by the respondent and there was no complaint in his work, who approached the concerned authorities for his reengagement but in vain, who had not left the job of his own, who is unemployed since then and prays for reinstatement in service along with all consequential benefits including back wages continuity and seniority in service.

7. To rebut the case of the petitioner, the respondent has examined Shri Bhupinder Kumar Karkara, Senior Scientist Incharge, who has stated that the petitioner was engaged on seasonal basis as beldar in March, 1995 till August, 1996 with a gap of two months, during which period, the petitioner remained absent. As per record, the petitioner worked for 201 days in 1996 and 213 days in 1995. The mandays chart is Ex. RA and the copies of muster rolls are Ex. R/1 to Ex. R/16. The petitioner abandoned his job in August, 1996 after working only for 11 days and then he never reported for duties. The petitioner filed one case before H. P. Administrative Tribunal in 1996 in which interim orders were passed in his favour but he failed to resume his duties which is Ex. RB. They received first letter to Labour Inspector in 2002 but nothing has been done thereafter and he is posted as Incharge since May, 1999 but the petitioner did not come for work despite the directions of Administrative Tribunal. They have not retained any junior or employed any person after 1996 and there is only seasonal work and they engage the labour as and when the work is available and the case of the petitioner is still pending.

8. I have considered the respective contention of both the parties and have scrutinized the record of the case.

9. After the close scrutiny of the record of the case and on the basis of the mandays chart Ex. RA placed on record it is clear that the petitioner has not completed 240 working days in a calendar year preceding his termination. Apart from it, it is the case of the respondent that the petitioner was engaged for seasonal work and for specific period whose services come to an end with the completion of the work. It is well settled in (2006) 6 SCC 221 incase titled as Reserve Bank Of India Vs. Gopi Nath Sharma & Another in which it was held that:—

“Workman not appointed to any regular post but engaged on the basis of need of work on day to day basis, held, had no right to the post.”

10. Apart from it, it was further held in case titled as Punjab State Electricity Board V. Darbara Singh reported in 2006 LLR 68 SC. And in case titled as Municipal Council Samrala V. Surhwinder Kaur reported in 2006 LLR 1009 SC. In which it was held that:—

“material on record established that engagement of workman was for specific period and additional as such his termination will be excluded as per the provisions of section 2(oo)(bb) of the I.D Act and hence, no retrenchment compensation will be payable on his termination even when he has worked for more than 240 days in the preceding 12 calendar months.”

Thus, having regard to the above cited rulings and entire evidence on record, it can safely be concluded that the petitioner was engaged for seasonal work and for specific period and on the completion of the work he was removed form service and as such it does not lie in the mouth of petitioner to claim his reengagement on the basis of his previous work with the respondent and even if it is proved on record that the petitioner has completed 240 working days in a calendar year preceding his termination even then he is not entitled to be reengaged in service by giving him the protection under section 25-F of the Industrial Disputes Act, 1947 as it is now well settled principle of law that the appointment made for specific period time comes to an end by efflux of time and the person on such post can have no right to continue on the post and it does not matter even if he has worked for more than 240 working days in any calendar 12 months preceding his termination and obviously therefore, I have no hesitation in coming to the conclusion that the termination of services of petitioner w.e.f. 6/1996 without complying the provisions of section 25-F of the Industrial Disputes Act, 1947 by respondent on the completion of the work is fair and justified and does not call for interference by this court. Accordingly this issue is decided in favour of respondent and against the petitioner.

Issue No. 2 :

11. Since I have held issue no.1 in negative, hence the petitioner is not entitled to any relief as prayed for. Accordingly the issue is decided in favour of respondent and against the petitioner.

Issue No. 3 :

12. In support of this issue, no evidence was led by the respondent nor it was pressed during the course of arguments. However, I have scrutinized the record of the case and I find nothing wrong with this petition which is maintainable in the present form. Accordingly the issue is decided in favour of petitioner and against the respondent.

Issue No. 4 :

13. In support of this issue, no evidence was led by the respondent nor it was pressed during the course of arguments, hence this issue is decided in negative.

Issue No. 5 :

14. In support of this issue, no evidence was led by the respondent as to show that the petitioner abandoned the job of his own. Moreover, it is the case of the respondent that the services of the petitioner came to an end on the completion of the work and as such it is clear that there was no abandonment on the part of petitioner and therefore, I have no hesitation in coming to the conclusion that the petitioner has not abandoned the job of his own. Accordingly, the issue is decided in favour of petitioner and against the respondent.

Relief :

As a sequel to my above discussion and findings on issue No.1 to 5 above, the claim of the petitioner fails and is hereby dismissed as a result of which the reference is ordered to be answered accordingly. Let a copy of this order be sent to the appropriate government for publication in official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 30th day of September, 2008 in the presence of parties.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

In the Court of Jagmohan Singh Mahantan, Presiding Judge, Industrial Tribunal-cum-Labour Court Shimla

Ref. No. 168 of 2001.

Instituted On. 30.8.2001.

Decided On. 30.9.2008

Shri Shayam Singh S/o Shri Meen Singh R/o Village Bohal P.O. Banethi Tehsil Nahan, District Sirmaur, H. P.
..Petitioner.

Versus

The Divisional Forest Officer, Nahan, District Sirmaur, H.P. *..Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri O.P Chauhan, Ld. Csl.

For respondent : Shri R.S Parmar, Ld. ADA.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:—

“Whether the action of the Divisional Forest Officer, Nahan HP to terminate the services of Shri Shayam Singh S/o Shri Meen Singh time and again as per availability of seasonal work is legal and justified? If not, to what seniority, service benefits and relief the concerned workman is entitled to?”

2. The petitioner has filed a claim asserting therein that he was appointed as daily waged labourer in the year 1986 whose services were terminated verbally in 1987 without any notice and complying with the requirements of law as envisaged under section 25 of Industrial Disputes Act nor he was paid any kind of compensation for the said retrenchment and that the petitioner has been terminated while his juniors have been retained and regularized and even fresh hands were appointed to do the job for which the petitioner was doing before the termination and as such his termination amounts to retrenchment which is bad and is liable to be set aside and quashed and that if the termination was affected on some misconduct, no enquiry whatsoever was held to prove the charges and that dispensing with of services of petitioner is illegal and void and being so the petitioner is entitled to be restored to the same position and place with consequential benefits and prayed for reinstatement retrospectively with all consequential benefits including continuity and back wages, hence this claim.

3. The respondent resisted and contested the claim of the petitioner, which filed reply interalia contending that the petitioner joined the work in September, 1987 only and that the petitioner himself left the work in September, 1994 and the respondent never terminated the services of the petitioner and that the petitioner never completed 240 days continuously in any calendar year during his work in the office and the mandays chart of the petitioner is annexure R-1 and that the petitioner left the work of his own, hence there is no question arise to issue show cause notice etc. and that the petitioner can be engaged on work according to his seniority as and where the work would be on progress in Jamta Range as earlier assured to the petitioner and prayed for the dismissal of the claim petition.

4. No rejoinder filed. The following issues were framed by this court on 19.1.2006 on the pleadings of the parties.

21. Whether termination of services of the petitioner by the respondent is illegal and unjustified? ..OPP.

22. Relief.

5. I have heard the Ld. Counsels for parties and have also gone through the record of the case. 6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under:—

Issue No. 1 : No.

Relief : Reference answered in negative per operative part of award.

REASONS FOR FINDINGS

Issue No. 1 :

7. Coming to issue No.1, the petitioner has examined two PWs in all. Pw-1 Shri Shyam Singh has stated that he was engaged by the respondent as labourer in March, 1986 who continued as such upto 1997 and then his services were orally terminated by the respondent without any reason and notice. The respondent assured him that they would call him back as and when the work is available and the work is still available with the department. Juniors to him S/shri Madan Singh and Balinder Singh are still working with the department at Banethi. The respondent R.O. has issued the experience certificate which is Ex. PW-1/A and as such prayed for reengagement in service along with all consequential benefits including back wages, seniority and continuity in service.

8. PW-2 Shri Babu Ram has stated that he is serving on daily wages in HP Forest Department since 1980. The petitioner was also working in the Forest Department alongwith him and they worked upto 1997. He does not know who removed the petitioner and Shyam singh was engaged alone. Some persons were engaged after the petitioner, who are still working. The labour is engaged by the department only when there is work and the labour is disengaged when there is no work.

9. To rebut the case of the petitioner, the respondent has examined Shri Vijay Pal, Deputy Ranger Forest Range Jamta, who has stated that he is posted in Jamta Forest Range since 2001 and maintaining the record of this case. The petitioner was engaged as casual labour on daily wages in September, 1987 for plantation, who worked from September, 1987 to 1997 and proved the mandays chart Ex. RA of petitioner. The petitioner has not worked for 240 days in any year. They were calling the petitioner for work as and when the work was available but the petitioner insists that he should be engaged on permanent basis otherwise he would not come to the work and the petitioner never approached the department after September, 1994. The petitioner was not removed from service.

10. The case of the petitioner is that he being the daily waged worker had completed more than 240 working days in a calendar year and his juniors are still working with the department is entitled for reinstatement in service with seniority and continuity along with back wages.

11. On the contrary, the respondent contends that the petitioner was engaged for seasonal work for specific period and he was engaged with the availability of the work, who has not completed 240 working days in any calendar year preceding his abandonment and as such he is not entitled to any relief and no juniors to the petitioner are engaged by the respondent.

12. I have considered the respective contention of both the parties and have scrutinized the record of the case.

13. After the close scrutiny of the record of the case, it is the admitted case of the petitioner that he was engaged for seasonal work for specific time. It is well settled in (2006) 6 SCC 221, case titled as Reserve Bank of India V. Gopinath Sharma & Anr. In which it was held that :—

“Workman not appointed to any regular post but engaged on the basis of need of work on day to day basis, held, had no right to the post.”

11. Similarly in 2006 (2) SCC 794 in case titled as Haryana State Agricultural Marketing Board V. Subhash Chand & Anr. In which it was held that:—

“If nature of service does not come within purview of definition of retrenchment in section 2(oo), question of applicability of section 25-G does not arise. Bare perusal of offer of appointment (set out in para 2 herein) clearly shows that respondent was appointed on seasonal contracts. Hence, respondent not having been reengaged on expiry thereof, he was not retrenched within meaning of section 2(oo), and his case fell under exception in section 2(oo)(bb). Hence, section 25-G was inapplicable in his case and dispensing with engagement of respondent cannot be said to be unwarranted in law.”

12. Apart from it, it was further held in case titled as Punjab State Electricity Board V. Darbara Singh reported in 2006 LLR 68 SC. And in case titled as Municipal Council Samrala V. Surhwinder Kaur reported in 2006 LLR 1009 SC. In which it was held that:—

“material on record established that engagement of workman was for specific period and additional as such his termination will be excluded as per the provisions of section 2(oo)(bb) of the I.D Act and hence, no retrenchment compensation will be payable on his termination even when he has worked for more than 240 days in the preceding 12 calendar months.”

Thus, having regard to the above cited rulings and entire evidence on record, it can safely be concluded that the petitioner was engaged for seasonal work for specific period and on the completion of the work he was removed from service, who has not completed 240 working days in any calendar year preceding his termination as is evident from the mandays chart Ex. RA and obviously therefore, I have no hesitation in coming to the conclusion that the termination of services of the petitioner by the respondent is not illegal or unjustified as the petitioner himself abandoned the job of his own who has failed to discharge his burden that he was in employment for 240 days during preceding 12 months of date of termination of his service and as such the petitioner is not entitled for protection of section 25-F of the Industrial Disputes Act, 1947 before his service was terminated.

Accordingly this issue is decided in favour of respondent and against the petitioner.

Relief :

As a sequel to my above discussion and findings on issue No.1 above, the claim of the petitioner fails and is hereby dismissed as a result of which the reference is ordered to be answered accordingly. Let a copy of this order be sent to the appropriate government for publication in official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 30th day of September, 2008 in the presence of parties.

JAGMOHAN SINGH MAHANTAN,
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

ब अदालत कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्री दीपक ठाकुर पुत्र श्री जबर सिंह, गांव पनागड़ी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) . . वादी ।

बनाम

आम जनता

. . प्रतिवादी ।

उपरोक्त श्री दीपक ठाकुर पुत्र श्री जबर सिंह, निवासी पनागड़ी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसका सही नाम दीपक ठाकुर है जबकि पंचायत रिकार्ड में उसका नाम दौलत राम गलत दर्ज है ।

अतः इस इशतहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त नाम की दुरुस्ती करने बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे हाजिर आकर पेश करें अन्यथा उक्त आवेदक दौलत राम का सही नाम दीपक ठाकुर दर्ज करने का आदेश जारी कर दिया जायेगा ।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

हस्ताक्षरित— /
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्रीमती योगा शर्मा धर्मपत्नी स्व0 श्री टिकम राम, निवासी सुनैर, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)
...वादी।

बनाम

आम जनता

... प्रतिवादी।

श्रीमती योगा शर्मा धर्मपत्नी स्व0 श्री टिकम राम, निवासी सुनैर, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसका नाम पंचायत रिकार्ड में गुड्डी देवी गलत दर्ज है जबकि उसका सही नाम योगा शर्मा ही है।

अतः इस इशतहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त नाम की दुरुस्ती करने बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे हाजिर आकर पेश करें अन्यथा सम्बन्धित पंचायत को उक्त गुड्डी देवी का सही नाम योगा शर्मा दर्ज करने का आदेश जारी कर दिया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्री हरदयाल शुक्ला पुत्र श्री मोहन लाल, निवासी पुजारली, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)
... प्रार्थी।

बनाम

आम जनता

... प्रतिवादी।

श्री हरदयाल शुक्ला पुत्र श्री मोहन लाल, निवासी पुजारली, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसकी पुत्री अंजू की माता का नाम पंचायत रिकार्ड में शिला देवी गलत दर्ज है जबकि उसका सही कृष्णा देवी है तथा अंजू की जन्म तिथि 23-11-1995 है।

अतः इस इशतहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त हरदयाल शुक्ला की पुत्री अंजू की माता का नाम कृष्णा देवी दर्ज करने बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे हाजिर आकर पेश करें अन्यथा सम्बन्धित पंचायत को उक्त आवेदक की पुत्री अंजू की माता का सही नाम कृष्णा देवी दर्ज करने का आदेश जारी किया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

हस्ताक्षरित—/
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्री घुंफलू राम पुत्र श्री शांगरू, निवासी उर्दू, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) . . वादी।

बनाम

आम जनता . . प्रतिवादी।

उपरोक्त मुकद्दमा में श्री घुंफलू राम पुत्र श्री शांगरू, निवासी उर्दू, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने इस अदालत में एक प्रार्थना-पत्र सशप्त कथन सहित गुजारा है कि उसकी जन्म तिथि 15-1-1944 है जबकि पंचायत अभिलेख ग्राम पंचायत राहणू में उसकी जन्म तिथि 50 वर्ष 31-12-2007 तक गलत दर्ज है।

अतः इस अदालती इशतहार द्वारा सर्वसाधारण जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को भी उक्त जन्म तिथि दुरुस्ती बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे हाजिर आकर पेश करें। गैर-हाजरी की सूरत में नियमानुसार कार्यवाही अमल में लाई जायेगी।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्रीमती हिऊं दासी पत्नी श्री नेसी राम, निवासी मकटू, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) . . प्रार्थी।

बनाम

आम जनता . . प्रतिवादी।

उपरोक्त श्रीमती हिऊं दासी पत्नी श्री नेसी राम, निवासी मकटू, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसका नाम कार्यालय ग्राम पंचायत तवार में नूपू देवी गलत दर्ज है जबकि उसका सही नाम श्रीमती हिम दासी ही है।

अतः इस इशतहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त नाम की दुरुस्ती बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे असातन/वकालतन हाजिर आकर पेश करें अन्यथा कार्यालय ग्राम पंचायत तवार को उक्त नूपू देवी का सही नाम हिम दासी दर्ज करने का आदेश पारित कर दिया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्री जोधा राम पुत्र श्री जय सिंह, निवासी शाह, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) . . प्रार्थी।

बनाम

आम जनता

. . प्रतिवादी।

उपरोक्त श्री जोधा राम पुत्र श्री जय सिंह, निवासी कुशवा, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसका नाम कार्यालय ग्राम पंचायत कुशवा में राम जोधा गलत दर्ज है जबकि उसका सही नाम श्री जोधा राम ही है।

अतः इस इशतहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त नाम की दुरुस्ती बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे असातन/वकालतन हाजिर आकर पेश करें अन्यथा कार्यालय ग्राम पंचायत कुशवा को उक्त राम जोधा का सही नाम जोधा राम दर्ज करने का आदेश पारित कर दिया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्री गुल्लाव सिंह पुत्र श्री उदे राम, निवासी सगोफा, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) . . प्रार्थी।

बनाम

आम जनता

. . प्रतिवादी।

उपरोक्त श्री गुल्लाव सिंह पुत्र श्री उदे राम, निवासी सगोफा, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसके परिवार में निम्न सदस्य हैं जो कि कार्यालय ग्राम पंचायत चायल में दर्ज न हैं। तथा दर्ज करने हेतु अनुरोध किया है।

अतः इस नोटिस द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त आवेदक के निम्न सदस्यों का नाम दर्ज करने बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे असालतन/वकालतन हाजिर आकर पेश करें अन्यथा उक्त आवेदक व उसके परिवार का नाम व जन्म तिथियां दर्ज करने बारे ग्राम पंचायत चायल को आदेश जारी कर दिया जायेगा। परिवार के सदस्यों का ब्यौरा निम्न प्रकार है :—

	जन्म तिथि
1. श्री गुलाव सिंह पुत्र श्री उदे राम	20-11-1960
2. श्रीमती कृष्णा देवी पत्नी श्री गुलाव सिंह	10-09-1963
3. शेर सिंह पुत्र श्री गुलाव सिंह	09-01-1985
4. सविता देवी पुत्री श्री गुलाव सिंह	05-08-1987
5. कुलदीप सिंह पुत्र श्री गुलाव सिंह	03-12-1987

मोहर।

हस्ताक्षरित—/
कार्यकारी दण्डाधिकारी,
तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्री हरबंस लाल पुत्र श्री परमा नन्द, निवासी अवेरी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) . . प्रार्थी।

बनाम

आम जनता

. . प्रतिवादी।

उपरोक्त विषय के बारे में श्री हरबंस लाल पुत्र श्री परमा नन्द, निवासी अवेरी, फाटी निरमण्ड, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसकी पुत्री रुचि शर्मा का नाम पंचायत रिकार्ड में रोजी गलत दर्ज है तथा सही नाम रुचि शर्मा दर्ज करने हेतु अनुरोध किया है।

अतः इस नोटिस द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त नाम की दुरुस्ती करने बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे असालतन/वकालतन हाजिर आकर पेश करें। अन्यथा उपरोक्त रोजी का सही नाम रुचि शर्मा दर्ज करने का आदेश पारित कर दिया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी,
तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्रीमती दुर्गा देवी पत्नी श्री घनश्याम, निवासी कुलथा, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

. . प्रार्थी ।

बनाम

आम जनता

. . प्रतिवादी ।

उपरोक्त विषय के बारे में श्रीमती दुर्गा देवी पत्नी श्री घनश्याम, निवासी कुलथा फाटी राहणू, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसके पुत्र विटू का नाम पंचायत रिकार्ड में राजेन्द्र कुमार गलत दर्ज है तथा सही नाम वीटू दर्ज करने हेतु अनुरोध किया है ।

अतः इस नोटिस द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त नाम की दुरुस्ती करने बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे असातन/वकालतन हाजिर आकर पेश करें। अन्यथा उपरोक्त राजेन्द्र कुमार का सही नाम वीटू दर्ज करने का आदेश पारित कर दिया जायेगा ।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ ।

मोहर ।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी,
तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्रीमती फागणी देवी पत्नी श्री रोशन लाल, निवासी थड़ेधार, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

. . वादी ।

बनाम

आम जनता

. . प्रतिवादी ।

उपरोक्त मुकद्दमा प्रार्थी श्रीमती फागणी देवी पत्नी श्री रोशन लाल, निवासी थड़ेधार, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने इस अदालत में एक प्रार्थना-पत्र सशप्त कथन सहित गुजारा है कि उसकी जन्म तिथि 25-12-1967 है जबकि पंचायत अभिलेख ग्राम पंचायत सरगा में उसकी जन्म तिथि 1967 गलत दर्ज है ।

अतः इस अदालती इशतहार द्वारा सर्वसाधारण जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को भी उक्त जन्म तिथि दुरुस्ती बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे हाजिर आकर पेश करें। गैर-हाजरी की सूरत में नियमानुसार कार्यवाही अमल में लाई जायेगी ।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ ।

मोहर ।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी,
तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्रीमती चम्पा देवी पत्नी श्री रमेश चन्द, निवासी अवेरी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

. . प्रार्थी ।

बनाम

आम जनता

. . प्रतिवादी ।

उपरोक्त श्रीमती चम्पा देवी पत्नी श्री रमेश चन्द, निवासी अवेरी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसका नाम कार्यालय ग्राम पंचायत वाहवा में रामदासी व जन्म तिथि 1965 गलत दर्ज है जबकि उसका सही नाम श्रीमती चम्पा देवी, जन्म तिथि 1-1-1972 ही है ।

अतः इस इशतहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त नाम की दुरुस्ती बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे असातन/वकालतन हाजिर आकर पेश करें। अन्यथा कार्यालय ग्राम पंचायत वाहवा को उक्त रामदासी का सही नाम चम्पा देवी, जन्म तिथि 1-1-1972 दर्ज करने का आदेश पारित कर दिया जायेगा ।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ ।

मोहर ।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी,
तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्री हरदयाल पुत्र श्री आत्मा राम, निवासी वीनीवाग, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

. . वादी ।

बनाम

आम जनता

. . प्रतिवादी ।

उपरोक्त मुकद्दमा में प्रार्थी श्री हरदयाल पुत्र श्री आत्मा राम, निवासी वीनीवाग, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने इस अदालत में एक प्रार्थना-पत्र सशप्त कथन सहित गुजारा है कि उसकी जन्म तिथि 15-8-1974 है जबकि पंचायत अभिलेख ग्राम पंचायत तवार में उसकी की जन्म तिथि केवल 1972 गलत दर्ज है ।

अतः इस अदालती इशतहार द्वारा सर्वसाधारण जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को भी उक्त जन्म तिथि की दुरुस्ती बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे हाजिर आकर पेश करें। गैर-हाजरी की सूरत में नियमानुसार कार्यवाही अमल में लाई जायेगी ।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ ।

मोहर ।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी,
तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्रीमती डोलामणी पत्नी श्री पलस्तमुनि, निवासी अवेरी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

. . प्रार्थी।

बनाम

आम जनता

. . प्रतिवादी।

उपरोक्त श्रीमती डोलामणी पत्नी श्री पलस्तमुनि, निवासी अवेरी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसका नाम कार्यालय ग्राम पंचायत बाहवा में नीता देवी गलत दर्ज है जबकि उसका सही नाम श्रीमती डोलामणी ही है।

अतः इस इशतहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त नाम की दुरुस्ती बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे असातन/वकालतन हाजिर आकर पेश करें अन्यथा कार्यालय ग्राम पंचायत बाहवा को उक्त नीता देवी का सही नाम डोलामणी दर्ज करने का आदेश पारित कर दिया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी,
तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्री पलस्तमुनि पुत्र श्री परमा नन्द, निवासी अवेरी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) . . प्रार्थी।

बनाम

आम जनता

. . प्रतिवादी।

उपरोक्त श्री पलस्तमुनि पुत्र श्री परमा नन्द, निवासी अवेरी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसका नाम कार्यालय ग्राम पंचायत बाहवा में पलस्ता नन्द गलत दर्ज है जबकि उसका सही नाम पलस्तमुनी ही है।

अतः इस इशतहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त नाम की दुरुस्ती बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे असातन/वकालतन हाजिर आकर पेश करें अन्यथा कार्यालय ग्राम पंचायत बाहवा को उक्त पलस्ता नन्द का सही नाम पलस्तमुनी दर्ज करने का आदेश पारित कर दिया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्री प्रेम कुमार पुत्र श्री बेली राम, निवासी शलाट, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) . . वादी।

बनाम

आम जनता

. . प्रतिवादी।

उपरोक्त विषय के बारे में श्री प्रेम कुमार पुत्र श्री बेली राम, निवासी शलाट, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसका सही नाम प्रेम कुमार है लेकिन पंचायत रिकार्ड में प्रेम दास गलत दर्ज किया गया है तथा सही नाम दर्ज करने बारे अनुरोध किया है।

अतः इस नोटिस द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त नाम की दुरुस्ती बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे असालतन/वकालतन हाजिर आकर पेश करें अन्यथा उपरोक्त आवेदक प्रेम दास का सही नाम प्रेम कुमार दर्ज करने का आदेश पारित कर दिया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

ब मुकद्दमा :

श्री राकेश वेदी पुत्र श्री प्रेम भगवान, निवासी फलैवर, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) . . वादी।

बनाम

आम जनता

. . प्रतिवादीगण।

उपरोक्त विषय के बारे में श्री राकेश वेदी पुत्र श्री प्रेम भगवान, निवासी फलैवर, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसकी पुत्री रितिका वेदी पुत्र आदर्श वेदी का जन्म तिथि 19-3-1989 व 15-4-91 को मुकाम फलैवर में हुआ लेकिन अज्ञानता के कारण वह उक्त सन्तान की जन्म तिथि दर्ज नहीं करवा सका है।

अतः इस इश्तहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त जन्म तिथि दर्ज करने बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे असालतन/वकालतन हाजिर आकर पेश करें अन्यथा ग्राम पंचायत गयोग को उक्त जन्म तिथि दर्ज करने का आदेश पारित किया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

ब मुकदमा :

श्री गोविन्द राम पुत्र श्री टिकम राम, निवासी जूणी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) . . वादी।

बनाम

आम जनता

. . प्रतिवादीगण।

उपरोक्त विषय के बारे में श्री गोविन्द राम पुत्र श्री टिकम राम, निवासी जूणी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसकी पुत्री मंजना ठाकुर का जन्म दिनांक 21-1-2003 को मुकाम जूणी में हुआ है लेकिन अज्ञानता के कारण वह उक्त सन्तान की जन्म तिथि दर्ज नहीं करवा सका है।

अतः इस इशतहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त जन्म तिथि दर्ज करने बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे असागतन/वकालतन हाजिर आकर पेश करें अन्यथा ग्राम पंचायत अरसू को उक्त जन्म तिथि दर्ज करने का आदेश पारित किया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

ब मुकदमा :

श्री अनिल कुमार पुत्र श्री रामा नन्द, निवासी ब्रौ, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) . . वादी।

बनाम

आम जनता

. . प्रतिवादीगण।

उपरोक्त विषय के बारे में श्री अनिल कुमार पुत्र श्री रामा नन्द, निवासी ब्रौ, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसकी पुत्री तरुण कुमारी का जन्म दिनांक 2-4-2006 को मुकाम ब्रौ में हुआ है लेकिन अज्ञानता के कारण वह उक्त सन्तान की जन्म तिथि दर्ज नहीं करवा सका है।

अतः इस इशतहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त जन्म तिथि दर्ज करने बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे असागतन/वकालतन हाजिर आकर पेश करें अन्यथा ग्राम पंचायत पोशना को उक्त जन्म तिथि दर्ज करने का आदेश पारित किया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्रीमती भीगू देवी पत्नी श्री गोपाल चन्द, निवासी चम्बू, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

.. प्रार्थी।

बनाम

आम जनता

.. प्रतिवादी।

श्रीमती भीगू देवी पत्नी श्री गोपाल चन्द, निवासी चम्बू, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसकी जन्म तिथि ग्राम पंचायत बाहवा के रिकार्ड में गलत दर्ज है जिस में मात्र वर्ष 1960 दर्ज है जबकि उसकी जन्म तिथि 6-3-1968 है।

अतः इस इशतहार द्वारा सर्वसाधारण जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त जन्म तिथि के दुरुस्ती बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे हाजिर आकर पेश करें अन्यथा सचिव ग्राम पंचायत को जन्म तिथि दुरुस्त करने का आदेश पारित कर दिया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री एस0 आर0 शर्मा, कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

ब मुकद्दमा :

रीना देवी पुत्री श्री जीत बहादुर, निवासी नाभीधार, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) .. वादी।

बनाम

आम जनता

.. प्रतिवादीगण।

उपरोक्त विषय के बारे में रीना देवी पुत्री श्री जीत बहादुर, निवासी नाभीधार, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसका जन्म दिनांक 5-2-1990 को मुकाम नाभीधार में हुआ लेकिन अज्ञानता के कारण वह उक्त जन्म तिथि दर्ज नहीं करवा सकी है।

अतः इस इशतहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त जन्म तिथि दर्ज करने बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे असातन/वकालतन हाजिर आकर पेश करें अन्यथा ग्राम पंचायत भालसी को उक्त जन्म तिथि दर्ज करने का आदेश पारित किया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

एस0 आर0 शर्मा,
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0)

श्री सन्देश कुमार पुत्र श्रीमती कृष्णा देवी, निवासी डावार सेरी, डाकघर खरगा, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) . . प्रार्थी।

बनाम

आम जनता

. . प्रतिवादी।

श्री सन्देश कुमार पुत्र श्रीमती कृष्णा देवी, निवासी डावार सेरी, डाकघर खरगा, तहसील निरमण्ड, जिला कुल्लू (हि0 प्र0) ने आवेदन-पत्र सशप्त कथन सहित गुजारा है कि उसके पिता श्री कृष्ण लाल बिलासपुर का रहने वाला था जो उसके पैदा होने के पश्चात् बिलासपुर चला गया जिसका आज तक कोई पता न है जिसने उसकी माता को छोड़ दिया है। अब वह अपनी नानी रेतभू देवी के साथ रहता है तथा उसी के परिवार में रहना चाहता है तथा रेतभू देवी ने भी सशप्त पत्र दिया है कि उसको सन्देश कुमार को अपने साथ दर्ज करने में कोई आपत्ति न है।

अतः इस इशतहार द्वारा आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उक्त सन्देश कुमार को श्रीमती रेतभू देवी के परिवार में दर्ज करने बारे एतराज हो तो वह दिनांक 30-1-2009 को प्रातः 10.00 बजे हाजिर आकर पेश करें अन्यथा सन्देश कुमार को उसकी नानी रेतभू देवी के परिवार में दर्ज करने का आदेश पारित कर दिया जायेगा।

आज दिनांक 15-12-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

हस्ताक्षरित-/
कार्यकारी दण्डाधिकारी, तहसील निरमण्ड,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री राजेश्वर गोयल, एच0 ए0 एस0, उप-मण्डल मैजिस्ट्रेट, मनाली, जिला कुल्लू (हि0 प्र0)

श्रीमती सुरेन्द्रा देवी पत्नी श्री निहाल चन्द, निवासी सियाल, तहसील मनाली, जिला कुल्लू (हि0 प्र0)।

बनाम

आम जनता

दरखास्त बराए नाम की दुरुस्ती करने बारे।

श्रीमती सुरेन्द्रा देवी पत्नी श्री निहाल चन्द, निवासी सियाल, तहसील मनाली, जिला कुल्लू (हि0 प्र0) ने इस कार्यालय में प्रार्थना-पत्र प्रस्तुत किया है कि उसका नाम ग्राम पंचायत सियाल में

सुरेन्द्रा देवी के बजाये विमला देवी लिखा गया है जोकि गलत है जिसकी वह स्कूल रिकार्ड के अनुसार दुरुस्ती करवाकर सुरेन्द्रा देवी दर्ज करवाना चाहती है। अतः इसे बदलकर दुरुस्त किया जावे।

अतः इस अदालती इश्तहार द्वारा सर्वसाधारण को सूचित किया जाता है कि उक्त प्रार्थीया सुरेन्द्रा देवी के नाम की दुरुस्ती बारे किसी को किसी प्रकार की कोई भी आपत्ति हो तो वह दिनांक 30-1-2009 को या इससे पूर्व इस अदालत में हाजिर होकर अपनी आपत्ति दर्ज करवा सकता है। इसके उपरान्त कोई भी उजर/एतराज समायत न होगा तथा नियमानुसार उक्त नाम की दुरुस्ती करवाने के आदेश पारित कर दिये जायेंगे।

आज दिनांक 29-12-2008 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

राजेश्वर गोयल, एच0 ए0 एस0,
उप-मण्डल मैजिस्ट्रेट, मनाली,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री राजेश्वर गोयल, एच0 ए0 एस0, उप-मण्डल मैजिस्ट्रेट, मनाली, जिला कुल्लू (हि0 प्र0)

Miss लक्ष्मी पुत्री श्री बल बहादुर, निवासी भजोगी, वार्ड नम्बर 2, मनाली, जिला कुल्लू (हि0 प्र0)।

बनाम

आम जनता

विषय : प्रकाशन इश्तहार बावत जन्मतिथि पंजीकरण जेर धारा 13 (3) जन्म एवं मृत्यु अधिनियम, 1969.

नोटिस बनाम आम जनता

Miss लक्ष्मी पुत्री श्री बल बहादुर, निवासी भजोगी, वार्ड नम्बर 2, मनाली, तहसील मनाली, जिला कुल्लू (हि0 प्र0) ने इस न्यायालय में आवेदन-पत्र मय शपथ-पत्र गुजारा है कि उसका जन्म जो दिनांक 25-5-1979 को हुआ है, परन्तु उसकी जन्म तिथि नगर पंचायत मनाली के रिकार्ड में दर्ज न की गई है, जिसे अब दर्ज करवाने के आदेश सादर फरमाये जावे।

अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को लक्ष्मी की जन्म तिथि दर्ज करवाने बारे आपत्ति हो तो वह दिनांक 30-1-2009 को या इससे पूर्व इस अदालत में हाजिर होकर अपनी आपत्ति दर्ज करवा सकता है। इसके उपरान्त कोई भी उजर/एतराज समायत न होगा तथा नियमानुसार उक्त नाम की दुरुस्ती करवाने के आदेश पारित कर दिये जायेंगे।

आज दिनांक 29-12-2008 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

राजेश्वर गोयल, एच0 ए0 एस0,
उप-मण्डल मैजिस्ट्रेट, मनाली,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री राजेश्वर गोयल, एच0 ए0 एस0, उप-मण्डल मैजिस्ट्रेट, मनाली, जिला कुल्लू (हि0 प्र0)

श्री जय सिंह पुत्र श्री जसवीर सिंह, निवासी भजोगी, वार्ड नम्बर 2, मनाली, तहसील मनाली, जिला कुल्लू (हि0 प्र0)।

बनाम

आम जनता

विषय : प्रकाशन इश्तहार बावत जन्मतिथि पंजीकरण जेर धारा 13 (3) जन्म एवं मृत्यु अधिनियम, 1969.

नोटिस बनाम आम जनता

श्री जय सिंह पुत्र श्री जसवीर सिंह, निवासी भजोगी, वार्ड नम्बर 2, मनाली, तहसील मनाली, जिला कुल्लू (हि0 प्र0) ने इस न्यायालय में आवेदन-पत्र मय शपथ-पत्र गुजारा है कि उसका जन्म जो दिनांक 14-1-1974 को हुआ है, परन्तु उसकी जन्म तिथि नगर पंचायत मनाली के रिकार्ड में दर्ज न की गई है, जिसे अब दर्ज करवाने के आदेश सादर फरमाये जावे।

अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को जय सिंह की जन्म तिथि दर्ज करवाने बारे आपत्ति हो तो वह दिनांक 30-1-2009 को या इससे पूर्व इस अदालत में हाजिर होकर अपनी आपत्ति दर्ज करवा सकता है। इसके उपरान्त कोई भी उजर/एतराज समायत न होगा तथा नियमानुसार उक्त नाम की दुरुस्ती करवाने के आदेश पारित कर दिये जायेंगे।

आज दिनांक 29-12-2008 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

राजेश्वर गोयल, एच0 ए0 एस0,
उप-मण्डल मैजिस्ट्रेट, मनाली,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री राजेश्वर गोयल, एच0 ए0 एस0, उप-मण्डल मैजिस्ट्रेट, मनाली, जिला कुल्लू (हि0 प्र0)

श्रीमती Lakoo पत्नी श्री Choduptendhar, निवासी गोम्पा रोड़ मनाली वार्ड नम्बर 7, H. No. 6, Manali, जिला कुल्लू (हि0 प्र0)।

बनाम

आम जनता

विषय : प्रकाशन इश्तहार बावत जन्मतिथि पंजीकरण जेर धारा 13 (3) जन्म एवं मृत्यु अधिनियम, 1969.

नोटिस बनाम आम जनता

श्रीमती Lakoo पत्नी श्री Choduptendhar, निवासी गोम्पा रोड़, मनाली, वार्ड नम्बर 7, H. No. 6] Manali, तहसील मनाली, जिला कुल्लू (हि0 प्र0) ने इस न्यायालय में आवेदन-पत्र मय शपथ-पत्र गुजारा है कि उसका पुत्र तैन्जिन डावा जो दिनांक 25-1-1994 को पैदा हुआ है, परन्तु उसकी जन्म तिथि नगर पंचायत मनाली के रिकार्ड में दर्ज न की गई है, जिसे अब दर्ज करवाने के आदेश सादर फरमाये जावे।

अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को Tenzin Dawa की जन्म तिथि दर्ज करवाने बारे आपत्ति हो तो वह दिनांक 30-1-2009 को या इससे पूर्व इस अदालत में हाजिर होकर अपनी आपत्ति दर्ज करवा सकता है। इसके उपरान्त कोई भी उजर/एतराज समायत न होगा तथा नियमानुसार उक्त नाम की दुरुस्ती करवाने के आदेश पारित कर दिये जायेंगे।

आज दिनांक 29-12-2008 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

राजेश्वर गोयल, एच0 ए0 एस0,
उप-मण्डल मैजिस्ट्रेट, मनाली,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री राजेश्वर गोयल, एच0 ए0 एस0, उप-मण्डल मैजिस्ट्रेट, मनाली, जिला कुल्लू (हि0 प्र0)

Tej Vanti पुत्री श्री तारा चन्द, निवासी पूजन, डाकघर वराण, तहसील मनाली, जिला कुल्लू (हि0 प्र0)।

बनाम

आम जनता

दरखास्त बराए नाम की दुरुस्ती करने बारे व जन्म तिथि की दुरुस्ती बारे जेर धारा 13 (3) जन्म तिथि अधिनियम, 1969.

Tej Vanti पुत्री श्री तारा चन्द, निवासी पूजन, डाकघर वराण, तहसील मनाली, जिला कुल्लू (हि0 प्र0) ने इस कार्यालय में प्रार्थना-पत्र प्रस्तुत किया है कि उसका नाम ग्राम पंचायत वराण में तेज वन्ती के बजाये नीता दर्ज है जबकि जन्म तिथि 15-11-1986 के बजाये 29-12-1985 दर्ज है जो स्कूल के रिकार्ड के अनुसार सही है जिसकी वह पंचायत में दुरुस्ती करवाना चाहती है।

अतः इस अदालती इशतहार द्वारा सर्वसाधारण को सूचित किया जाता है कि उक्त प्रार्थीया तेज वन्ती के नाम व जन्म तिथि की दुरुस्ती बारे किसी को किसी प्रकार की कोई भी आपत्ति हो तो वह दिनांक 30-1-2009 को या इससे पूर्व इस अदालत में हाजिर होकर अपनी आपत्ति दर्ज करवा सकता है। इसके उपरान्त कोई भी उजर/एतराज समायत न होगा तथा नियमानुसार उक्त नाम की दुरुस्ती करवाने के आदेश पारित कर दिये जायेंगे।

आज दिनांक 29-12-2008 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

राजेश्वर गोयल, एच0 ए0 एस0,
उप-मण्डल मैजिस्ट्रेट, मनाली,
जिला कुल्लू (हि0 प्र0)।

ब अदालत श्री मान सिंह, सहायक समाहर्ता प्रथम वर्ग, सुन्नी, जिला शिमला (हि0 प्र0)

श्री नागेश कुमार पुत्र श्री लच्छमण, निवासी महाल धरयाणा, तहसील सुन्नी, जिला शिमला, (हि0 प्र0)
. . प्रार्थी।

बनाम

आम जनता

. . प्रत्यार्थी।

विषय : तस्दीक इन्तकाल वरासत श्रीमती निर्मला पुत्री श्री सीस राम, निवासी महाल धरयाणा, तहसील सुन्नी, जिला शिमला (हि0 प्र0)।

हरगाह खास व आम को बजरिया नोटिस सूचित किया जाता है कि श्री नागेश कुमार पुत्र श्री लच्छमण, निवासी महाल धरयाणा, तहसील सुन्नी, जिला शिमला (हि0 प्र0) ने इस न्यायालय में प्रार्थना-पत्र गुजार कर अभिव्यक्त किया है कि उसकी माता श्रीमती निर्मला पुत्री श्री सीस राम, निवासी महाल धरयाणा, तहसील सुन्नी, जो अरसा 16 साल से लापता है उसके जिन्दा व मुर्दा होने बारे कोई पता न है प्रार्थी ने निवेदन किया है कि उक्त श्रीमती निर्मला पुत्री श्री सीस राम की वरासत का इन्तकाल बहक उसके जायज वारसान के नाम दर्ज कर तस्दीक किया जावे।

अतः इस इशतहार द्वारा आम जनता व बशिन्दगान देह तथा श्रीमती निर्मला को सूचित किया जाता है कि यदि किसी व्यक्ति को श्रीमती निर्मला पुत्री सीस राम की वरासत का इन्तकाल बहक उसके जायज वारसान के नाम दर्ज करवाने में कोई आपत्ति हो तो वह अपनी आपत्ति लिखित रूप में दिनांक 31-1-2009 अथवा इससे पूर्व इस न्यायालय को प्रस्तुत करें। तदोपरान्त कोई आपत्ति मान्य नहीं होगी।

हमारे हस्ताक्षर व मोहर अदालत से आज दिनांक 5-12-2008 को जारी हुआ।

मोहर।

मान सिंह,
सहायक समाहर्ता प्रथम वर्ग,
सुन्नी, जिला शिमला (हि0 प्र0)।

ब अदालत श्री प्रेम सिंह नेगी, सहायक समाहर्ता द्वितीय श्रेणी, रामपुर बुशैहर, जिला शिमला (हि0 प्र0)

नम्बर मुकद्दमा
10/2008

तारीख रजुआ
23-12-08

तारीख फैसला
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श्री गुलाब सिंह पुत्र श्री राम सिंह, निवासी ग्राम बरकेली, तहसील रामपुर बुशैहर, जिला शिमला (हि0 प्र0) . . प्रार्थी।

बनाम

आम जनता

. . प्रतिवादी।

दरखास्त दरुस्ती नाम कागजात माल चक बरकेली, व भदराश, तहसील रामपुर बुशैहर, जिला शिमला (हि0 प्र0)।

यह दरखास्त हमारे समक्ष प्रार्थी श्री गुलाब सिंह पुत्र श्री राम सिंह, निवासी गांव बरकेली, तहसील रामपुर बुशैहर ने इस आशय से प्रस्तुत किया है कि उसका सही नाम गुलाब सिंह है जैसा कि ग्राम पंचायत बड़ाच, फोटो पहचान-पत्र में भी गुलाब सिंह दर्शाया है, परन्तु वाका चक बरकेली व भदराश में जोगिन्दर सिंह पुत्र श्री राम सिंह दर्ज है जो कि गलत है। जोगिन्दर सिंह के स्थान पर गुलाब सिंह नाम दरुस्त करवाना चाहता है। पुष्टि हेतु शपथ पत्र, फोटो पहचान-पत्र व प्रमाण-पत्र ग्राम पंचायत बड़ाच संलग्न किया है।

अतः आम जनता को इस इशतहार राजपत्र, हिमाचल प्रदेश द्वारा सूचित किया जाता है कि श्री गुलाब सिंह उर्फ श्री जोगिन्दर सिंह जिसका नाम राजस्व रिकार्ड में जोगिन्दर सिंह है के स्थान पर गुलाब सिंह दुरुस्त करने में किसी का कोई एतराज हो तो वह दिनांक 31-1-2009 को प्रातः 10.00 बजे असालतन या वकालतन हाजिर आकर अपना उजर व एतराज पेश कर सकता है अन्यथा यकतरफा कार्यवाही अमल में लाई जावेगी।

आज दिनांक 23-12-2008 को हमारे हस्ताक्षर व मोहर अदालत से जारी किया गया।

मोहर।

प्रेम सिंह नेगी,
सहायक समाहर्ता द्वितीय श्रेणी,
रामपुर बुशैहर, जिला शिमला (हि0 प्र0)।

ब अदालत श्री प्रेम सिंह नेगी, सहायक समाहर्ता द्वितीय श्रेणी, रामपुर बुशैहर, जिला शिमला (हि0 प्र0)

नम्बर मुकद्दमा
11/2008

तारीख रजुआ
23-12-08

तारीख फैसला
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श्री हरि सिंह पुत्र श्री समू, निवासी ग्राम क्याओ परगना 15/20, तहसील रामपुर बुशैहर, जिला शिमला (हि0 प्र0) . . प्रार्थी।

बनाम

आम जनता

. . प्रतिवादी।

दरखास्त दुरुस्ती नाम कागजात माल अराजी खसरा नम्बर 891 मुन्दर्जा खाता/खतौनी नम्बर 76/200 वाका चक क्याओ, तहसील रामपुर बुशैहर, जिला शिमला (हि0 प्र0)।

यह दरखास्त हमारे समक्ष प्रार्थी श्री हरि सिंह पुत्र श्री समू, निवासी ग्राम क्याओ परगना 15/20, तहसील रामपुर बुशैहर, जिला शिमला ने इस आशय के साथ प्रस्तुत की है कि उसका नाम अराजी खसरा नम्बर 891, मुन्दर्जा खाता खतौनी नम्बर 76/200, वाका चक क्याओ, खाना मालिक में वरवक्त वरास्त गलत दर्ज करवा दिया है जबकि प्रार्थी का नाम मुताविक ग्राम पंचायत रिकार्ड हरि सिंह सही व दुरुस्त है परन्तु उपरोक्त कागजात माल में पिदू नाम दर्ज है जो कि गलत है। राजस्व रिकार्ड में पिदू के स्थान पर खाता मलकियत में हरि सिंह पुत्र श्री समू दर्ज करवाना चाहता है।

अतः आम जनता को इस इशतहार राजपत्र, हिमाचल प्रदेश द्वारा सूचित किया जाता है कि हरि सिंह उर्फ पिदू जिसका नाम राजस्व रिकार्ड में पिदू है के स्थान पर हरि सिंह दुरुस्त करने में किसी प्रकार का कोई उजर व एतराज हो तो वह दिनांक 31-1-2009 को प्रातः 10.00 बजे असालतन या वकालतन हाजिर आकर अपना उजर व एतराज पेश कर सकता है अन्यथा यकतरफा कार्यवाही अमल में लाई जावेगी तथा इसके बाद कोई उजर व एतराज न काबले समायत होगा।

आज दिनांक 23-12-2008 को हमारे हस्ताक्षर व मोहर अदालत से जारी किया गया।

मोहर।

प्रेम सिंह नेगी,
सहायक समाहर्ता द्वितीय श्रेणी,
रामपुर बुशैहर, जिला शिमला (हि0 प्र0)।

ब अदालत श्री प्रेम सिंह नेगी, सहायक समाहर्ता द्वितीय श्रेणी, रामपुर बुशैहर, जिला शिमला (हि0 प्र0)

नम्बर मुकद्दमा
12/2008

तारीख रजुआ
26-12-08

तारीख फैसला

श्री महेन्द्र सिंह पुत्र श्री तिर्थ सिंह, निवासी वार्ड नम्बर 3, नगर रामपुर बुशैहर, जिला शिमला (हि0 प्र0) . . प्रार्थी।

बनाम

आम जनता

. . प्रतिवादी।

दरखास्त दरुस्ती नाम कागजात माल खाता/खतौनी नम्बर 58/95 कस्बा बाजार, प्रथम रामपुर बुशैहर, तहसील रामपुर बुशैहर, जिला शिमला (हि0 प्र0)।

यह दरखास्त हमारे समक्ष प्रार्थी श्री महेन्द्र सिंह पुत्र श्री तिर्थ सिंह, निवासी वार्ड नम्बर 3, नगर रामपुर, तहसील रामपुर, जिला शिमला ने इस आशय से प्रस्तुत की है कि उसकी पुत्री दिव्या कुमारी का नाम खाता/खतौनी नम्बर 58/95 वाका चक कस्बा बाजार, प्रथम रामपुर के कागजात माल में गलत दर्ज हो गया है। दिव्या कुमारी का नाम स्कूल रिकार्ड व पंचायत रिकार्ड में पराजकता है जो कि वरवक्त तस्दीक इन्तकाल नम्बर 307 वरास्त द्वारा दिव्या कुमारी दर्ज हो गया है। इसकी दरुस्ती करवाना चाहता है। पुष्टी हेतु जन्म प्रमाण-पत्र संलग्न किया है।

अतः आम जनता को इस इशतहार राजपत्र, द्वारा सूचित किया जाता है कि दिव्या कुमारी पुत्री श्री महेन्द्र सिंह के स्थान पर पराजकता दर्ज करने बारा किसी प्रकार का कोई उजर व एतराज हो तो वह दिनांक 31-1-2009 को प्रातः 10.00 बजे असालतन या वकालतन हाजिर अदालत आकर अपना उजर व एतराज पेश कर सकता है। अन्यथा यकतरफा कार्यवाही अमल में लाई जावेगी तथा इसके बाद किसी प्रकार का एतराज न काबले समायत होगा।

आज दिनांक 26-12-2008 को मेरे हस्ताक्षर व मोहर अदालत से जारी किया गया।
मोहर।

प्रेम सिंह नेगी,
सहायक समाहर्ता द्वितीय श्रेणी,
रामपुर बुशैहर, जिला शिमला (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी, अम्ब, जिला ऊना (हि0 प्र0)

श्री Ravinder Kumar पुत्र श्री Gurbax Singh, निवासी Mawakaholan, तहसील अम्ब, जिला ऊना (हि0 प्र0)।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री Ravinder Kumar पुत्र श्री Gurbax Singh, निवासी Mawakaholan, ने इस अदालत में प्रार्थना-पत्र गुजारा है कि उसके लड़के Dev Aryan का जन्म दिनांक 1-2-2004 को हुआ था परन्तु अज्ञानतावश वह उसकी जन्म तिथि ग्राम पंचायत के रिकार्ड Mawakaholan में दर्ज नहीं कर सका है।

अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि यदि इस बारा किसी को कोई एतराज हो तो वह दिनांक 27-1-2009 को असालतन या वकालतन हाजिर होकर अपना एतराज पेश कर सकता है। निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने पर प्रार्थना-पत्र श्री Ravinder Kumar पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 27-12-2008 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी,
अम्ब, जिला ऊना (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी, अम्ब, जिला ऊना (हि0 प्र0)

श्रीमती Usha Kiran पत्नी श्री Jasmer Singh, निवासी Brahampur, तहसील अम्ब, जिला ऊना (हि0 प्र0)।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्रीमती Usha Kiran पत्नी श्री Jasmer Singh, निवासी Bahampia, ने इस अदालत में प्रार्थना-पत्र गुजारा है कि उसकी लड़की Saksham Thakur का जन्म दिनांक 28-1-1998 को हुआ है परन्तु अज्ञानतावश वह उसकी जन्म तिथि ग्राम पंचायत के रिकार्ड Bhaderkali में दर्ज नहीं कर सकी।

अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि यदि इस बारा किसी को कोई एतराज हो तो वह दिनांक 27-1-2009 को असालतन या वकालतन हाजिर होकर अपना एतराज पेश कर सकता है। निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने पर प्रार्थना-पत्र श्री Ushakiran पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 27-1-2008 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी,
अम्ब, जिला ऊना (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी, अम्ब, जिला ऊना (हि0 प्र0)

श्री Varinder Singh पुत्र श्री Harbans Singh, निवासी Gagreu, तहसील अम्ब, जिला ऊना (हि0 प्र0)।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री Varinder Singh पुत्र श्री Harbans Singh, निवासी Gagreu, ने इस अदालत में प्रार्थना-पत्र गुजारा है कि उसके लड़के Uday Thakur का जन्म दिनांक 24-9-2006 को हुआ है परन्तु अज्ञानतावश वह उसकी जन्म तिथि नगर पंचायत Gagreu के रिकार्ड में दर्ज नहीं करवा सका।

अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि यदि इस बारा किसी को कोई एतराज हो तो वह दिनांक 27-1-2009 को असालतन या वकालतन हाजिर होकर अपना एतराज पेश कर सकता है। निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने पर प्रार्थना-पत्र श्री Varinder Singh पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 27-1-2008 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।
मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी,
अम्ब, जिला ऊना (हि0 प्र0)।
